

EXECUTIVE ORDER NO. 362

WHEREAS, the Constitution of the State of New Jersey vests in the Governor the power to grant pardons and reprieves in all cases other than impeachment and treason; and

WHEREAS, executive clemency, including pardons, reprieves, and commutations, can temper the impact of a criminal justice system that does not always produce justice; and

WHEREAS, the availability of executive clemency also reflects a recognition that individuals are endowed with human dignity and value, capable of rehabilitation, and deserving of second chances; and

WHEREAS, the worst moment in someone's history should not serve as the sole defining moment for their future; and

WHEREAS, over 155,000 individuals are currently incarcerated in prison or jails, or under community supervision through parole or probation in New Jersey; and

WHEREAS, even after successfully completing a court-ordered sentence for a crime or offense, an individual may still be burdened and hindered by stigmatization and may still continue to experience collateral consequences from their conviction; and

WHEREAS, in recent years, we have made significant progress in reducing the unduly harsh collateral consequences of a conviction and in dismantling barriers faced by individuals with prior involvement with the criminal justice system, which disproportionately affect Black and Hispanic or Latino New Jerseyans; and

WHEREAS, for example, during my Administration we have worked with the Legislature to reform our expungement process to be one of the most progressive in the nation, to restore voting rights for individuals on probation and parole, to ensure that individuals with criminal records have a fair chance to find affordable housing, and to reduce barriers to professional licensure and employment faced by individuals with criminal records; and

WHEREAS, despite these and other recent changes to mitigate collateral consequences of convictions, a conviction still may result in certain legal disabilities under state law, including a prohibition on jury service for individuals convicted of an indictable offense, limitations on eligibility for expungement, and barriers to professional licensure and employment, among others; and

WHEREAS, a conviction under New Jersey law also may have collateral consequences under federal law, including rendering an individual removable from or inadmissible into the United States; and

WHEREAS, the Governor's grant of a pardon may relieve an individual from such legal disabilities, and also may enable the recipient to reintegrate more fully into the community by reducing the stigma associated with a conviction; and

WHEREAS, establishing a sound process for consideration of clemency applications can promote the proper and responsible use of this power; and

WHEREAS, the Constitution provides that a commission or other body may be established to aid and advise the Governor in the exercise of executive clemency; and

WHEREAS, the New Jersey State Parole Board has played and continues to play a critical role in aiding Governors in their exercise of executive clemency by accepting clemency applications and communicating pertinent information about each to the Governor's Office; and

WHEREAS, in addition to the assistance provided by the State Parole Board, my consideration of clemency applications would be aided by the deliberations and recommendations of a board of advisors with varying perspectives on the criminal justice system generally and on executive clemency in particular; and

WHEREAS, while each clemency application should receive individualized consideration, applications that fall into certain categories are particularly likely to warrant an exercise of executive

clemency and therefore should receive prioritized or expedited consideration; and

WHEREAS, regardless of whether their application is expedited for review or considered in the ordinary course, each applicant should receive thorough consideration and should have the opportunity to identify any circumstances that they believe support their request for executive clemency, including that they have benefited from rehabilitative programming, that a significant amount of time has passed since their latest offense, and that their sentence was disproportionate to their culpability, among other factors; and

WHEREAS, in evaluating any clemency application, consideration also should be given to public safety, the interests of justice, the views of the applicant's victims (if any), and the views of any families affected;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established a Clemency Advisory Board ("Board"), which shall be responsible for aiding and advising the Governor in the Governor's consideration of applications for executive clemency, including pardons and commutations.

2. The Board shall consist of the Attorney General, or their designee, and at least five public members appointed by the Governor. The public members shall include a retired member of the Judiciary, an attorney with significant experience representing criminal defendants, and an individual with knowledge or experience regarding the practice of executive clemency in the federal government or in other states, as well as individuals who will contribute moral, social justice, and victim advocacy perspectives to the Board. One member shall be designated by the Governor to serve as Chairperson.

3. All members of the Board shall serve at the pleasure of the Governor and without compensation.

4. The Board shall organize as soon as practicable after the appointment of its members and shall convene as often as requested by the Governor or Chairperson, but not less than once per month.

5. The Board will establish internal policies and procedures for evaluating applicants for executive clemency and for providing written evaluations and recommendations to the Governor through the Office of Chief Counsel. These internal policies and procedures will be determined in consultation with the Office of the Governor, and, subject to the approval of the Governor, may include modifications to the criteria for expedited consideration in Paragraphs 8 and 9 of this Order.

6. The Board's evaluations and recommendations shall constitute advisory, consultative, and deliberative materials for the Governor's review. To best encourage complete candor in reviewing all applications before the Board, these materials will remain confidential with the Governor and within the Office of the Governor. Written evaluations and recommendations prepared by the Board and related documents shall be deemed to be confidential, non-public, and not subject to the Open Public Records Act, P.L.1963, c.73, as amended and supplemented. Nothing in this Order shall be construed to limit application of Paragraph 2.h of Executive Order No. 9 (1963), which establishes that no records relating to petitions for executive clemency shall be deemed to be public records subject to inspection and examination and available for copying pursuant to the Open Public Records Act.

7. Consistent with Article V, Section 2, Paragraph 1 of the New Jersey State Constitution, the Governor retains sole authority and discretion to determine whom to grant any measure of executive clemency. The Governor shall not be bound to follow any recommendation provided by the Board.

8. The Board shall expedite its consideration of clemency applications from individuals who have completed their terms of incarceration, probation, or other court-based diversionary program, and parole supervision, if applicable, and consider the individual merits of such applications before others that do not qualify for expedited consideration under Paragraph 8 or 9, if the application satisfies at least one requirement of Paragraph 8.a and at least one requirement of Paragraph 8.b and none of the exceptions in Paragraph 10 apply.

a. Time-Based Criteria:

- i. More than ten (10) years have elapsed since the applicant completed their most recent sentence, including any term of incarceration, parole, or probation, or in a court-based diversionary program;
- ii. More than five (5) years have elapsed since the applicant completed their most recent sentence, including any term of incarceration, parole, or probation, or in a court-based diversionary program, and the applicant is currently at least 60 years old; or
- iii. More than five (5) years have elapsed since the applicant completed their most recent sentence, including any term of incarceration, parole, or probation, or in a court-based diversionary program, and the applicant was 25 years old or younger at the time of the offense.

b. Offense-Based Criteria:

- i. The application does not seek executive clemency for a crime enumerated in the No Early Release Act, N.J.S.A. 2C:43-7.2(d);

- ii. The application seeks executive clemency for a conviction for a crime or offense which is no longer unlawful;
- iii. No objection has been received from the Prosecutor for any county in which the applicant has received a conviction for which the applicant is seeking executive clemency; or
- iv. The Conviction Review Unit within the Office of the Attorney General has referred the application for expedited consideration.

9. The Board shall expedite its consideration of clemency applications from individuals who are presently serving a term of incarceration, probation, or parole supervision, or who are in a court-based diversionary program, and consider the individual merits of such applications before others that do not qualify for expedited consideration under Paragraph 8 or 9, if the application satisfies at least one of the following requirements and none of the exceptions in Paragraph 10 apply.

- a. The applicant is a victim of domestic or sexual violence or sex trafficking who was convicted of a crime or offense against the perpetrator of the domestic or sexual violence or sex trafficking, or of a crime or offense committed under the duress or coercion of such perpetrator;
- b. The application establishes that the applicant's sentence reflects an excessive trial penalty, based on a comparison of the sentence and a documented pre-trial plea offer;
- c. The application seeks executive clemency for a conviction for a crime or offense which is no longer unlawful;

- d. The application seeks executive clemency for a conviction that would have resulted in a less severe sentence under current law or policy; or
- e. The Conviction Review Unit within the Office of the Attorney General has referred the application for expedited consideration.

10. Notwithstanding the procedures for expedited consideration of clemency applications in Paragraphs 8 and 9, the Board shall not expedite its consideration of an application for executive clemency if the applicant is requesting executive clemency for a crime involving public corruption; if the applicant has pending charges that have not yet resulted in a sentence; or if the applicant has been convicted in another jurisdiction since the offense(s) for which they are seeking executive clemency and a clemency application relating to such conviction would not receive expedited consideration under the terms of this Order if the conduct at issue had resulted in a conviction under New Jersey law.

11. The Board is authorized to call upon any department, office, division, or agency of this State to supply it with data or other information or assistance available to such agency as the Board deems necessary to execute its duties under this Order. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law, to cooperate fully with the Board and to furnish such assistance on as timely a basis as is necessary to accomplish the purpose of this Order. To the extent necessary, the State Parole Board and the Department of Law and Public Safety shall provide professional and clerical staff to the Board.

12. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any

independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

13. The Board shall be purely advisory in nature and shall provide advice to the Governor as appropriate.

14. Nothing in this Order shall be construed to confer any legal right upon any person; nothing shall be construed to create a private right of action on behalf of any person; and nothing shall be used as a basis for legal challenges to rules or other action or inaction by a State entity.

15. Nothing in this Order shall be construed to supersede any federal, State, or local law.

16. This Order shall take effect immediately.

GIVEN, under my hand and seal this
19th day of June,
Two Thousand and Twenty-Four,
and of the Independence of the
United States, the Two Hundred
and Forty-Eighth.

[seal]

/s/ Philip D. Murphy
Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor