

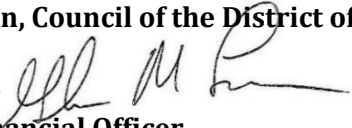
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee 
Chief Financial Officer

DATE: October 27, 2026

SUBJECT: Fiscal Impact Statement – Clemency Board Waiver Authority
Amendment Act of 2026

REFERENCE: Bill 26-38, Draft Committee Print as provided to the Office of Revenue
Analysis on October 8, 2026

Conclusion

Funds are sufficient in the fiscal year 2027 through fiscal year 2030 budget and financial plan to implement the bill. The Clemency Board (Board) does not require additional resources to implement the bill.

Background

The Clemency Board Establishment Act of 2018¹ (Act) established the Board and the process for applicants to seek a letter of recommendation to support their application for clemency to the President. The Act² mirrors the eligibility requirements and process used by the United States Department of Justice (DOJ), Office of the Pardon Attorney and requires that a pardon applicant wait five years after the date of their release from confinement or, in cases where no prison sentence was imposed, five years after the date of conviction.

The DOJ is authorized to grant waivers of this five-year waiting period.³ The Act does not provide the Board with similar authority to grant a waiver of this requirement. Without waiver authority, the Board cannot review cases that the federal government has already determined warrant

¹ Effective December 13, 2018 (D.C. Law 22-197; D.C. Official Code § 24-481.01 et seq.).

² D.C. Official Code § 24-481.05(c)(1).

³ Pursuant to § 9-140.112 of the Department of Justice Manual, which may be accessed here:
<https://www.justice.gov/jm/jm-9-140000-pardon-attorney>.

consideration. To avoid the Board deeming applications ineligible that have received a waiver of the five-year waiting period from the DOJ, the bill provides the Board with this authority.

Under District law⁴, individuals convicted of violating laws or regulations may apply to the Board for a clemency recommendation, unless other legal remedies⁵ are still available to them. For pardon applications, the Board’s criteria⁶ requires that applicants:

- Wait five years after release or after conviction if no incarceration;
- Have no other convictions, pending criminal charges, or related civil cases that the Board considers relevant to the original conviction;
- Show rehabilitation, unless they are claiming actual innocence; and
- Explain how a pardon would help them achieve their goals and contribute to the community.

For commutation applications, applicants must:

- Show rehabilitation, unless they are claiming actual innocence; and
- Explain how commutation would help them achieve their goals and contribute to the community.

Applicants receive special consideration if their offense’s sentencing scheme has since been altered to carry lighter penalties.

The bill would make permanent⁷ the waiver of the 5-year waiting period for pardon applicants, but only if:

- The DOJ Pardon Attorney or the President has already granted a federal waiver.
- The applicant is not on probation, parole, or supervised release.
- The Board may still deny the waiver even with federal approval.
- The Board may request more information or meet with the applicant.
- The Board provides written notice of its decision.
- The clemency application is paused until the waiver decision is made.

Financial Plan Impact

Funds are sufficient in the fiscal year 2027 through fiscal year 2030 budget and financial plan to implement the bill. The Board was created to assist individuals convicted of District Code Offenses seeking a pardon or commutation. Because the District is not a state, the Board cannot grant clemency, but it can recommend clemency to the President of the United States and the DOJ Pardon Attorney. The bill adds authority for the Board to waive the existing five-year waiting requirement. If the Board is granted waiver authority, the current processing the Board follows would proceed the same as for a standard request submitted after the five-year period. The Board does not require additional resources to consider applications of individuals eligible under the waiver and to issue any subsequent letters of recommendation.

⁴ D.C. Official Code § 24-481.05.

⁵ If other forms of judicial or administrative relief are available based on existing law and already-discovered evidence.

⁶ Developed pursuant to D.C. Official Code § 24-481.03(b)(1).

⁷ See the Clemency Board Waiver Authority Temporary Amendment Act of 2026, effective May 29, 2026 (D.C. Law 26-124; D.C. Official Code § 24-481.05) and the Clemency Board Waiver Authority Temporary Amendment Act of 2026, effective April 10, 2026 (D.C. Law 26-295; D.C. Official Code § 24-481.05).