

STATE OF NEW JERSEY

Dept. of Institutions + Agencies (STATE) PAROLE BOARD,

RULES AND PROCEDURES
IN MATTERS OF EXECUTIVE CLEMENCY

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Adopted by the State Parole Board
and
Approved by the Governor

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INTRODUCTION

(Note: Section references refer to Chapter 83, P.L.1948)

- (Sec. 1) I - The Governor may grant pardons and reprieves in all cases other than impeachment and treason and may suspend and remit fines and forfeitures. (Constitution, Article V, Sec. II, Par.1)
- The Governor's powers of clemency may be exercised as follows:
- (Sec. 2) 1. To commute sentence of death to imprisonment at hard labor for life, or for a term of years.
- (Sec. 4) Such commuted "term of imprisonment shall not be remitted or commuted except by the Governor."
2. To commute the sentence of an inmate of a penal or correctional institution at any time during the sentence. Such commutation may be effective in either of two methods:
- (Sec. 1, 5) a. The commutation order may be self-executing and release the inmate to serve the unexpired portion of said sentence at large, subject to specified security, terms, conditions and limitations as set forth in the commutation order.
- b. The commutation may reduce either the minimum or maximum sentence (or both) of an inmate of a penal or correctional institution, thereby making him (her) eligible for parole consideration by the Parole Board.
- (Sec. 1) 3. To remit fines or forfeitures.
- (Sec. 6) 4. To restore the right of suffrage or such other civil rights or privileges of which a convicted person may have been deprived.
- (Sec. 1) 5. To grant pardons.
- II - All applications for clemency are submitted to the State Parole Board for full investigation and report to the Governor.

Until otherwise amended or revised by the Governor, or except where specifically recommended by the Parole Board and approved by the Governor, the following rules and regulations shall govern the procedure concerning applications for clemency:

I - REQUESTS FOR PETITIONS

Requests for petitions for any form of clemency shall be made to the Governor and shall be referred by him to the State Parole Board.

- A. If the applicant is confined in an institution, the request shall be made on the prescribed form of application, supplied to him (her) on request of the chief executive officer of the institution of confinement.
- B. If the applicant is at liberty, the prescribed form of application shall be supplied to him (her) by the State Parole Board.

II - DETERMINATION OF ELIGIBILITY

- A. Upon receipt of requests for petitions on the prescribed forms, the Parole Board shall determine the eligibility of the applicant to receive such petition in accordance with the rules of eligibility as set forth herein.
 1. If found to be ineligible, the applicant shall be so notified by the Parole Board.
 2. If eligible, the prescribed form of petition shall be supplied to the applicant by the Parole Board.
 - a. If the applicant is confined in an institution, the prescribed form of petition shall be forwarded to him (her) through the chief executive officer of the institution of confinement, who shall render any necessary assistance in completing the petition.
 - b. If the applicant is at liberty, the prescribed form of petition shall be forwarded to him (her) by mail. The petition shall be completed by the petitioner and executed before a person authorized to take oaths.

III - RULES OF ELIGIBILITY

- A. An application for that form of clemency which involves the release of the applicant from an institution shall not be entertained unless:
 1. The sentence imposed be for one year or more, and
 2. The applicant shall have served six months of a sentence of one year, or one year of a sentence exceeding one year, when the petition is considered by the Parole Board, or

3. The person applying shall have become so ill as to be without prospect of recovery under conditions of confinement, or
 4. All legal remedies have been exhausted or the time for pursuing same has expired, and it shall be determined that there are facts justifying the application which could not, with reasonable diligence, have been brought forth at the trial.
- B. An application for that form of clemency which involves the remission of a fine or forfeiture shall not be entertained unless or until the applicant is otherwise eligible for release from confinement.
- C. An application for that form of clemency which involves full pardon may not be entertained:
1. In cases where the applicant seeks a pardon for a crime involving homicide, unless at least ten years have elapsed since the discharge of the petitioner from parole supervision or probation.
 2. In any other case unless:
 - a. Five years have elapsed since the discharge of the petitioner from parole supervision or probation, or
 - b. Five years have elapsed since the conviction of the petitioner, if not committed to an institution or placed on probation.
- D. An application for that form of clemency which involves restoration of rights and privileges only may not be entertained unless:
1. Two years have elapsed since the release of the petitioner from a penal or correctional institution in the State of New Jersey.
 2. Two years have elapsed since the conviction of the petitioner, if not committed to an institution.
- E. An application for the commutation of a sentence of death will not be entertained until after final disposition of all available judicial proceedings.
- F. When a petition for clemency has been dismissed or denied, the case shall not again be considered unless:
1. In the case of a petitioner in confinement, the person applying shall have become so ill as to be without prospect of recovery under the conditions of confinement, or

2. It shall be determined that there are facts justifying the application which could not, with reasonable diligence, have been brought forward when the petition was first filed, or
3. The decision includes a date for such reconsideration, or
4. The Governor shall order such reconsideration.

IV - FILING OF PETITIONS

- A. Petitions for clemency shall be made only on the prescribed forms and shall briefly set forth the facts of the case and the reasons claimed as justifying the application. Papers, letters and documents, which may aid in the determination of the petition, may be presented with the petition.
- B. Petitions shall be addressed to the Governor and filed with the Parole Board as provided herein.
- C. Petitions to be considered by the Parole Board at a meeting regularly scheduled for the consideration of clemency matters, must be received by the Board not later than the first of the month immediately preceding such meeting.
- D. All petitions for clemency involving full pardon or the restoration of rights and privileges shall be supported by:
 1. Testimonials from at least two responsible persons having knowledge of the petitioner's behavior during at least the two years preceding the filing of the petition.
 2. If, when a petition for restoration of rights and privileges is filed, the petitioner is on parole or probation (on the sentence from which he (she) seeks relief), a summary of the petitioner's parole or probation record, and a recommendation by the supervising agency based on such record, shall be required.

V - CONSIDERATION OF PETITIONS

- A. The Parole Board, at any regularly scheduled meeting for the purpose of considering petitions for clemency, shall review the merits of all petitions filed in accordance with these regulations. The Board, acting in an advisory capacity, shall make a written report to the Governor on each petition, giving its conclusions and recommendations.
- B. The Board shall not review the proceedings of the trial court and shall not consider any questions regarding the correctness, regularity or legality of such proceedings, but shall confine itself solely to matters which properly bear upon the propriety of the extension of clemency to the petitioner.

- C. If at the meeting at which the Board considers clemency petitions, the Board, upon consideration, determines the case as set forth in the petition is not meritorious, a recommendation for dismissal, on the prescribed forms, together with all pertinent data shall be sent to the Governor within ten days.
- D. If at the meeting at which the Board considers clemency petitions, the Board, upon consideration, determines a case as set forth in a petition has merit, the case will be scheduled for further consideration and/or hearing as herein provided.
1. If the petitioner is confined in a penal or correctional institution, the case will be scheduled for a hearing at the next regular meeting of the Board, or the next successive meeting, held at the institution of confinement.
 - a. The chief executive officer of the institution of confinement shall be immediately notified of such hearing, and shall be required to prepare up-to-date classification material, which shall include psychiatric, psychological and medical reports, and reports of the petitioner's institutional adjustment and attitudes toward society, and recommendations from members of the institution staff as to the suitability of the petitioner for return to the community.
 - b. The clemency investigator shall be instructed to complete an investigation of the proposed community plan of the petitioner.
 - c. The Deputy Commissioner of the State Department of Institutions and Agencies, in charge of correction and parole, or his designated representative, shall furnish the Board with an evaluation of the factors relating to the proposed community parole plan.

NOTE: In cases involving petitioners confined in county penitentiaries, this evaluation shall be made by the chief probation officer of the county of proposed residence.
 2. If the petitioner is at liberty, the Board shall set a date within two months of the date of first consideration, on which final consideration will be given to the petition.
 - a. A report of the criminal record of the petitioner shall be requested and obtained from the Division of State Police.
 - b. The clemency investigator, at the discretion of the Board, may be instructed to make an investigation of the present circumstances, reputation and character of the petitioner.

- E. The Board shall promulgate a list of petitioners, arranged by county of conviction, including place of residence, place of commission of crime, crime, and date of commission of the crime.

The list of petitioners shall be forwarded to the judges, prosecutors and sheriffs of the counties concerned, and to the Attorney General.

- a. The judges and prosecutors shall be requested to make recommendations as to the merits of each petition involving a conviction in their respective counties.
- b. The sheriffs shall be requested to post the list in a conspicuous place in the county court house.

- F. At the meeting designated by the Board for final consideration by it of a petition for clemency, the petition shall be considered in the light of all the assembled information.

1. Petitioners confined in penal or correctional institutions shall be personally interviewed by the Board.
2. The petitions of persons at liberty shall be considered on the basis of the material filed in and with the petition and such other information as may have been obtained by the Board.

- G. The written recommendation of the Board, together with all pertinent data and proposed orders, shall be forwarded to the Governor within ten days after the final consideration by the Board of the petition. Recommendations to the Governor shall be submitted on prescribed forms in duplicate.

VI - FINAL DETERMINATION.

- A. After each case submitted is reviewed by the Governor, the Governor's determination with respect to the petition will be forwarded to the Board.
- B. The Parole Board, upon being informed of the Governor's decision, shall promptly notify the petitioner thereof.

If the petitioner is confined in a penal or correctional institution, a copy of the notification shall be sent by the Board to the executive officer of the institution of confinement.

VII - CONSIDERATION OF PETITIONS FOR
COMMUTATION - DEATH SENTENCES.

- A. The Parole Board shall meet to consider petitions for the commutation of a death sentence at the direction of the Governor.
- B. Unless otherwise ordered by the Governor and members of the Parole Board, only one counsel shall be heard in support of any such application and only one counsel in opposition thereto.
- C. Upon application for commutation of sentence of death, notice of the application shall be given by counsel for the applicant to the county prosecutor of the county of commitment and to the trial and sentencing judge. Proof of such notice shall be made unless the prosecutor appears at the hearing.

VIII - MEETINGS AND HEARINGS.

- A. The Parole Board shall meet to consider petitions for all forms of clemency, except commutation of death sentence, referred to it by the Governor, on the first Tuesday of January, May and October. Should such date fall on a holiday, the meeting for this purpose shall be held at a date, within one week of the scheduled date, to be fixed by the Board.
- B. The Board may meet at such places as it may designate for the purpose of considering petitions for clemency referred to it by the Governor.
- C. Hearings on petitions, where petitioner is in confinement, will be held at the institution of confinement as herein provided (see Section V) and the Board will call such petitioners before it for personal interviews.

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