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STATE OF NEVADA



BOARD OF PARDONS

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Criteria and Application Instructions *Community Cases*

The Pardons Board in Nevada consists of the Governor, the Attorney General and the Justices of the Supreme Court. Hearings to consider applications for Pardons generally occur twice each year and are held in the Supreme Court of Nevada located in Carson City.

Any person who has committed a crime under the laws of the State of Nevada may apply to the Pardons Board for consideration to receive a Pardon and/or the restoration of their civil rights. The power to grant a pardon or restore the rights of an offender does not extend to crimes committed under federal law or the laws of any other state.

Legal effects of a Pardon in Nevada

One of the primary misconceptions about pardons in Nevada is that a pardon is the only manner by which one may have one's rights restored. In Nevada, some rights are restored upon the completion of a sentence or period of parole or probation (see NRS 176A.850, 213.155 & 213.157).

Another misconception is that a pardon erases the conviction from the record. A pardon does not eliminate or erase the conviction. The records of conviction continue to exist in both court and law enforcement files.

The Right to Own and Possess Firearms

Convicted felons are prohibited from having firearms pursuant to NRS 202.360. The Pardons Board is the only body that can restore this right.

Effect of a Pardon on Occupational Licenses

With regard to occupational licensing, where a statute limits rights based on the underlying conduct and not the pardoned offense itself, a pardon would not remove or erase the disability of past conduct. If there is a requirement that the license applicant has not been convicted of a felony, the pardon would permit licensing. However, if the licensing standard is "good moral character", the pardon does not erase the moral guilt associated with the commission of a criminal offense and the fact giving rise to that conviction may be considered in determining whether that person is of "good moral character."

What a Pardon does:

1. An unconditional pardon removes all disabilities resulting from conviction thereof.
2. A Pardon forgives but does not forget.
3. A Pardon is the only instrument available to restore one's right to bear arms in Nevada.

What a Pardon doesn't do:

1. A Pardon does not overturn a judgment of conviction.
2. A Pardon does not erase or obliterate the fact that one was once convicted of a crime.
3. A Pardon does not substitute a good reputation for one that is bad.
4. A Pardon does not relieve a convicted sex offender of the requirement to register as such.
5. A Pardon does not attest to the rehabilitation of a person.
6. A Pardon does not remove any disabilities resulting from separate convictions that are not specified on the instrument of Pardon (ie, being pardoned on one offense but not another would not remove disabilities from the offense not pardoned).

General Standards for Considering Pardons Applications.

The following criteria have been established to assist in the evaluation of community case applications for pardons. This criterion is not intended to create the establishment of a right to a hearing before the Pardons Board, nor to create the expectation of being selected for a hearing.

Each case will be evaluated against these basic criteria. Selected cases will be investigated by the Division of Parole and Probation. During the investigation, if undisclosed negative information surfaces, the case may be removed from further consideration.

In general, a pardon is granted on the basis of the applicant's demonstrated good conduct for a substantial period of time after conviction and service of sentence. In determining whether a particular petitioner should be recommended for a pardon, the following are the principal factors taken into account.

1. Post-conviction conduct, character, and reputation: An individual's demonstrated ability to lead a responsible and productive life for a significant period after conviction or release from confinement/supervision is strong evidence of rehabilitation and worthiness for pardon. The background investigation conducted by the Division of Parole and Probation shall focus on the applicant's character since completing a sentence, financial and employment stability, responsibility toward family, reputation in the community, participation in community service, charitable or other meritorious activities. In assessing post-conviction accomplishments, each petitioner's life circumstances should be considered in their totality: it may not be appropriate or realistic to expect "extraordinary" post-conviction achievements from individuals who are less fortunately situated in terms of educational or economic background.

2. Seriousness and relative recency of the offense: When an offense is very serious (i.e, a violent crime, major drug trafficking, breach of public trust, or white collar fraud involving substantial sums of money), a suitable length of time should have elapsed in order to avoid denigrating the seriousness of the offense or undermining the deterrent effect of the conviction. Victim impact is also a relevant consideration. When an offense is very old and relatively minor, the equities may weigh more heavily in favor of forgiveness, provided the petitioner is otherwise a suitable candidate for pardon.

3. Acceptance of responsibility, remorse, and atonement: The extent to which a petitioner has accepted responsibility for his or her criminal conduct and made restitution to their victims are important considerations. A petitioner should be genuinely desirous of forgiveness rather than vindication. While the absence of expressions of remorse should not preclude favorable consideration, an applicant's attempt to minimize or rationalize culpability will not advance the case for pardon. Persons seeking a pardon on grounds of innocence or miscarriage of justice bear a formidable burden of persuasion.

4. Need for relief: The purpose for which pardon is sought may influence disposition of the petition. A felony conviction may result in a wide variety of legal disabilities, some of which can provide persuasive grounds for recommending a pardon. For example, a specific employment-related need for pardon, such as removal of a bar to licensure or bonding, may make an otherwise marginal case sufficiently compelling to warrant a grant in aid of the individual's continuing rehabilitation. The absence of a specific need will not be held against an otherwise deserving applicant who may be motivated solely by a strong personal desire for a sign of forgiveness.

Time eligibility for filing application for pardon.

1. No application for pardon should be filed prior to completing a waiting period of at least:
 - a. Five years from the date the applicant is released from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later, for a misdemeanor conviction of a crime which constitutes domestic violence pursuant to NRS 33.018.
 - b. Six years from the date of the release of the applicant from probation, parole or prison confinement for a category E felony.
 - c. Eight years from the date of the release of the applicant from probation for a category B, C, or D felony.
 - d. Nine years from the date of the release of the applicant from parole or prison confinement for a category D or C felony.
 - e. Ten years from the date of the release of the applicant from parole or prison confinement for a category B felony.
 - f. Twelve years from the date of the release of the applicant from probation, parole or prison confinement for a category A felony.

2. Applicants who incur Misdemeanor (excluding traffic tickets) or other convictions during the general waiting period before applying for a pardon may be required to begin the general waiting period following conviction or when imposed, upon the completion of any period of probation, parole, jail or prison confinement.

3. The Executive Secretary may, with the consent of a member, waive the minimum time requirement. Applicants who have not met the minimum time requirements should specifically indicate the reasons why it is important to waive the minimum time requirement.

Applications from individuals on parole.

Applications from individuals on parole will not be considered unless the applicant has met the minimum requirements as set forth in NRS 176.033(2); and

1. The applicant has received a favorable recommendation for a modification of sentence from the Division of Parole and Probation but the request was denied by the Board of Parole Commissioners; or
2. A petition for modification of sentence submitted by the Board of Parole Commissioners was denied by the court.
3. A member of the Pardons Board requests an applicant's case be placed on the agenda for consideration.

Applications from persons required to comply with sex offender registration pursuant to NRS 179D.350 through 179D.550.

An application from a person required to register as a sex offender pursuant to NRS 179D will not be considered unless the applicant has satisfied the requirements of NRS 179D.490 and is no longer required to register as a sex offender.

Pending Criminal Charges, Investigations or Appeals:

1. Persons with unresolved criminal charges or currently under criminal investigation by law enforcement will not be considered.
2. Cases that are under appeal in Nevada or Federal Court will not be considered.

Exceptions and other consideration:

Extraordinary circumstances or case factors may exist that mitigate disqualifying criteria. In order to consider applicants who claim exemptions because of extraordinary circumstances, the applicant must clearly demonstrate why such consideration should be given.

Each application will be considered on its own merit. Persons meeting the minimum criteria will be subject to further review and may be disqualified for one or more of the following reasons:

1. The nature and severity of the crime or factors involved.
2. Prior criminal history.
- 3) Overall community adjustment.
- 4) The discovery of other adverse information.

Expedited process for individuals seeking a pardon that meet specific criteria:

This procedure has been established to expedite the community case process by removing the need for formal hearings on certain cases meeting certain criteria only. The Board may grant the pardon and restore, in whole or in part, the civil rights of the applicant without a meeting if the following conditions are satisfied:

- (a) The offense for which the pardon is sought:
 1. Did not result in physical injury to a victim;
 2. Did not involve the use or threatened use of force or violence; and
 3. Was not a sexual offense.
- (b) The applicant has never been convicted of:
 1. An offense that resulted in physical injury to a victim;
 2. An offense involving the use or threatened use of force or violence; or

3. A sexual offense.
 - (c) There is no objection from the court in which the judgment was rendered.
 - (d) There is no objection from the district attorney of the county in which the applicant was convicted.
 - (e) The Board has not received a written request for notice concerning a meeting to consider an application for clemency from a victim of a crime committed by the applicant or, during the course of an investigation of the applicant, a victim of a crime committed by the applicant has not objected to the granting of a pardon to the applicant.

Inquiries and Correspondence:

The Executive Secretary and staff for the Pardons Board can be reached at (775) 687-5049. Correspondence should be addressed to:

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