

**STATE OF WISCONSIN  
OFFICE OF THE GOVERNOR**



**FREQUENTLY ASKED QUESTIONS ABOUT EXECUTIVE CLEMENCY**

**CLEMENCY IN GENERAL**

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**What is Executive Clemency?**

The Wisconsin Constitution empowers the Governor to grant executive clemency for criminal offenses committed in Wisconsin. Offenses committed in other states or for federal crimes are not eligible for clemency by the Governor. Executive clemency may take three forms:

- **Pardon:** A pardon is an act of official forgiveness that restores rights lost due to conviction. For example, a pardon of a felony conviction restores the ability to possess firearms, to hold public office, and to hold or be granted various licenses. The right to vote and the right to sit on a jury are automatically restored by the Department of Corrections once a person completes his/her sentence, including probation, parole or extended supervision.
- **Commutation:** A commutation modifies a person's sentence, usually by reducing the sentence or making consecutive sentences run concurrently. Only persons currently serving a sentence may seek commutation.
- **Reprieve:** A reprieve suspends a person's sentence for a given period of time, allowing the person to complete the sentence at a later time. Similar to a commutation, it applies only to persons currently serving a sentence.

**Can the Governor grant executive clemency for crimes committed in other states or federal crimes?**

The Governor of Wisconsin may only grant clemency for crimes committed in Wisconsin. To seek clemency for state crimes committed outside of Wisconsin, contact the governor's office in the state where you were convicted to learn about clemency eligibility in that state. To seek clemency for a federal conviction, contact the Office of the Pardon Attorney, U.S. Department of Justice, 500 First Street, N.W., Suite 400, Washington, D.C. 20530.

**Who is eligible to request executive clemency?**

You are eligible to apply for executive clemency if:

- you were convicted of a felony in Wisconsin and
- it has been five (5) years or more since you completed your sentence (including probation or parole).

**If I do not meet these requirements, can I still apply for clemency?**

If you are not automatically eligible, you must apply for and receive a waiver before seeking a pardon. A waiver is required if:

- you were convicted of a misdemeanor in Wisconsin, or
- it has been less than five (5) years since you completed your sentence, or
- you are presently incarcerated.

Waivers are rarely granted and only where extraordinary circumstances exist. To apply for a waiver, submit a **Waiver Request**. Do not submit the application for executive clemency. If a waiver is granted, you will be notified by mail and requested to submit an Application for Executive Clemency at that time. If a waiver is denied, you must wait eighteen months before re-applying.

## **What are “extraordinary circumstances” that will support a waiver?**

Typically, waivers are granted only where the applicant can show a specific documented need for clemency, a lack of subsequent criminal contacts, and a strong showing of personal development / rehabilitation.

An example of “extraordinary circumstances” where a waiver has been granted is where the applicant has a misdemeanor domestic violence conviction barring him/her from military service. Because federal law bars persons with domestic violence misdemeanor convictions from enlisting in the military unless pardoned, waivers have been granted where a person has demonstrated that he/she would be accepted for military service, but for the disqualifying domestic violence conviction and there is a strong probability that the Board will recommend a pardon.

## **If I receive a pardon, what rights will I re-gain?**

A person convicted of a felony in Wisconsin loses the right to vote\*; to serve on a jury\*; to hold public office; to hold or be granted various licenses (for example, alcohol and tobacco licenses); and to possess firearms. (\* The right to vote and the right to sit on a jury are automatically restored by the Department of Corrections once a person completes his/her sentence, including probation, parole or extended supervision.)

A person who receives a pardon generally regains the right to:

- hold public office
- hold or be granted various licenses
- possess firearms

## **If I receive a pardon, will my firearm rights be restored?**

Your firearm rights will be restored *unless* you have been convicted of a domestic violence misdemeanor or of possessing a firearm.

## **If I receive a pardon, will I be removed from the sex offender registry?**

No. An individual may be removed from the registry only when: (1) the period of registration mandated by law is completed, (2) the conviction, delinquency, adjudication or commitment has been reversed, set aside or vacated, or (3) upon the death of the registrant. For more information, consult the Department of Corrections website (<http://offender.doc.state.wi.us/public/proginfo/sor.jsp>).

## **If I receive executive clemency, will my criminal record be expunged, erased, or sealed?**

Executive clemency does not expunge, erase, or seal your criminal records, but the public record will reflect that a Governor’s pardon has issued.

A court—not the Governor—may expunge a criminal record under only two circumstances:

- Misdemeanors convictions for persons under the age of 21 upon successful completion of the sentence, and
- Juvenile convictions upon request and reaching the age of 17.

## **If I receive a pardon, must I acknowledge my conviction when applying for a job or applying to school?**

Yes, you should acknowledge your conviction if asked. However, you may provide prospective employers/schools with proof of pardon.

## **Can a potential employer refuse to hire me because of my criminal record?**

Generally speaking, an employer may refuse to hire an applicant on the basis of a conviction only if the circumstances of the conviction substantially relate to the particular job. For more information, see:

- Wis. Stat. § 111.35 (<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&d=stats&jd=111.335>).
- Arrest and Conviction Records Under the Law by the Dept. of Workforce Development ([http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_7609\\_p.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_7609_p.htm)).

**What licenses am I ineligible for because of my felony conviction? Which licenses will I be eligible for if I receive a pardon?**

To learn more about licensing restrictions in Wisconsin, contact the Dept. of Regulation and Licensing, Division of Administrative Services, 1400 E. Washington Ave., P.O. Box 8935, Madison, WI 53708-893, Phone: (608) 267-7211, Website: <http://drl.wi.gov/index.htm>.

**Do I need a pardon from the Governor to enlist in the U.S. military?**

As a general matter, a pardon does not affect eligibility to enlist in the U.S. military. Except in certain limited circumstances, if your criminal record makes you ineligible to enlist, a pardon will not affect that ineligibility determination. Most branches of the military have a process that, depending on the crime and circumstances, may allow you enlist without a pardon from the Governor. Contact the branch in question for details.

Due to a federal restriction on firearm possessions by persons convicted of domestic violence misdemeanors, a pardon is required before such persons are eligible for military service. Depending on the military branch, persons convicted of a domestic violence felony may also be ineligible for military service absent a pardon. Contact the branch in question for details.

**THE APPLICATION PROCESS**

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**Is there an application fee for a clemency application?**

No. The process is free for the applicant.

**What is the timeline for the executive clemency process?**

The Pardon Board receives roughly 200 applications for executive clemency each year. The Board meets at least four times each year and evaluates approximately 25-30 applications per meeting. Applications are reviewed in the order that they are received.

**Can my application be expedited?**

No. In the interest of fairness, applications are reviewed in the order they are received. There are no exceptions to this rule.

**Where can I obtain certified copies of the Criminal Complaint and Judgment of Conviction?**

Contact the Clerk of Courts in the county where you were convicted. A certified copy is signed by the clerk of courts verifying that the document is accurate and complete. Uncertified copies will be accepted. The clerk of courts charges a small fee for these documents.

**What if the clerk is unable to find copies of the documents required?**

Ask the clerk to mail a letter stating this to Governor's Pardon Advisory Board, 115 East State Capitol, Madison, WI 53702. This letter must come directly from the clerk, not from the applicant.

**What if the judge who oversaw my conviction is deceased or retired?**

If you cannot locate the judge, mail the notice form to the Clerk of Courts in the jurisdiction of conviction.

**I am seeking clemency for more than one crime. Which judge/district attorney should I notify?**

You must notify the judge and district attorney involved in each conviction. Photocopy the notice forms provided with the application and mail a separate form to each judge and a separate form to each district attorney. It is a good idea to include a statement or letter (or the application) explaining why you believe clemency should be granted.

**Must the application be notarized?**

Yes. Un-notarized applications will not be considered. To find a Notary Public in your area, consult the Wisconsin Secretary of State's website ([www.sos.state.wi.us/notary.htm](http://www.sos.state.wi.us/notary.htm)) or your local yellow pages.

## **Will I be notified when my file is complete?**

Yes. You will be notified in writing once your application package is complete. Application packages are not considered complete until both a completed application and the required notice forms from the judge, district attorney and prison officials (if applicable) are received. It is your responsibility to ensure that your application package is complete. If you do not receive confirmation within three (3) weeks of submitting your application, contact the Governor's Pardon Advisory Board at (608) 266-1212 to determine the status of your application.

## **THE HEARING**

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### **When will a hearing before the Pardon Advisory Board be scheduled?**

Hearings are scheduled based on the order applications are received. The Board meets at least four times and evaluates approximately 100 applications each year. Due to the number of applications received, there may be a significant waiting period before a hearing is scheduled.

Several weeks in advance of your hearing, we will notify you by mail and by phone of the exact date, time and location of the hearing, as well as the Board's policy regarding cancellations and no-shows. If your phone number or address changes at any point during the application process, notify the Pardon Board immediately.

### **Who are the members of the Governor's Pardon Advisory Board?**

The seven-member Board consists of four public members, the Governor's Legal Counsel or his/her designee, a representative from the Department of Justice, and a representative from the Department of Corrections. Members are appointed by the Governor. The Governor considers, but is not bound to follow, the recommendation of the Board in reaching his decision on clemency.

### **What factors do the Board and the Governor consider in reaching a decision?**

Applications are considered on a case-by-case basis based on the following factors:

1. The seriousness of the crime.
2. The applicant's criminal record and lack of subsequent criminal contacts.  
If you have been convicted of a misdemeanor or a felony since the conviction for which you are seeking clemency, a pardon is very unlikely.
3. The length of time since the crime in question was committed.  
You may apply for executive clemency five (5) years after completing your sentence, however, pardons are very rarely at the five year mark. A pardon is more likely after a significant amount of time has passed (ten or more years) since the conviction in question.
4. The applicant's personal development and progress since the crime was committed.  
The Board considers efforts at employment, training, education, and community and civic service. Letters of recommendation from employers, community members, etc. are strongly encouraged. Letters should describe the applicant's accomplishments or contributions to his/her community and should not simply state that the applicant has "stayed out of trouble" or "stayed clean."
5. A significant and documented need for clemency.
  - Significant need includes employment, schooling, job training, or the desire to hold public office.
  - The applicant should submit a letter from the prospective employer, licensing agency, school, or training program stating that the applicant will be considered for the job, license, bond, school, or training program if the applicant receives a pardon. If the applicant cannot secure such documentation, a letter from someone in the applicant's desired field of work is recommended.

- The applicant should also provide written documentation of significant steps taken in pursuit of the employment, schooling, job training, or public office.
- An undocumented claim that a pardon is necessary for a job, license, bond, schooling, or job training is generally insufficient.
- The desire to possess firearms or to “clear one’s conscience” is generally not considered a significant need. Exceptions may be made if substantial time has passed since the applicant’s crime, the crime for which the pardon is sought is minor and nonviolent, and the applicant has had no subsequent criminal contacts.

**Do I need a lawyer for any portion of the executive clemency process?**

A lawyer is not required to apply for executive clemency. If you are scheduled to appear at a Pardon Advisory Board hearing, you are not required to have a lawyer represent you, nor is it generally recommended. If your reason for a pardon is complicated or involves other legal processes (for example, immigration or employment issues), a lawyer may be helpful.

**Who can attend Governor’s Pardon Advisory Board hearings?**

Wisconsin law requires that the public receive notice that an applicant is seeking executive clemency. Such notice is published in the newspaper serving the county of conviction prior to the hearing. Reasonable efforts are also made to inform the victim, where applicable.

Pardon Advisory Board hearings are open to the public, including media.

**What if I need to postpone my hearing date or fail to show up?**

If you notify the Board at least three weeks before your hearing date, your hearing will be re-scheduled for the next Board meeting (usually three or four months later).

If you notify the Board after the three week deadline, absent compelling emergency circumstances, your hearing will not be rescheduled and your application will be placed at the bottom of the waiting list.

If you fail to appear at the hearing without explanation or prior notice, your application will be denied.

**THE BOARD’S RECOMMENDATION AND THE GOVERNOR’S FINAL DETERMINATION**

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**How will I be notified of the Board’s recommendation?**

After the hearing, the Board makes its recommendation to the Governor. Applicants are informed of the Board’s recommendation to grant or deny clemency by mail approximately two weeks after the hearing.

**Is the Governor required to follow the Board’s recommendation?**

The Wisconsin Constitution vests the power to grant or deny clemency exclusively in the Governor. Although the Governor’s final determination usually follows the Board’s recommendation, the Governor is not required to accept or follow the Board’s recommendation. Applicants will be notified of the Governor’s final decision by mail.

**If my application for executive clemency is denied, may I appeal the decision? May I re-apply?**

You may not appeal the Board’s recommendation or the Governor’s final decision, however, you may re-apply eighteen months from the date of the letter denying your application.

**Who should I contact if I have thoroughly reviewed the information in this packet and still have a question?**

**Governor’s Pardon Advisory Board**

Address: 115 East State Capitol, Madison, WI 53702

Phone: (608) 266-1212

E-mail: GovPardons@wisconsin.gov