



Prisoner Advocacy Network

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This handout is not intended to give legal advice, and no attorney-client relationship is created with the Prisoner Advocacy Network (PAN) by using any information in this guide.

Clemency (Commutation and Pardon)

The power of the Governor to grant clemency is an executive power contained in Article V of the California Constitution. People who are in prison or on parole can file an application with the Governor of California seeking clemency. Clemency comes in two forms: a commutation (sentence reduction for people still serving a sentence) or a pardon (relief from punishment and restoration of certain civic rights for people who have already served their sentence). The Governor is allowed to grant a reprieve, pardon, or commutation whenever they think it is proper. The decision lies solely with the Governor, and he/she can use whatever grounds he/she deems appropriate. The Governor must report to the Legislature every time he/she grants a reprieve, pardon, or commutation, stating the pertinent facts and reasons for granting it.

Note, however, if you have been convicted of a felony twice, the Governor is not allowed to grant a pardon or commutation without first requesting the recommendation of the Board of Parole Hearings (BPH) and then obtaining a favorable recommendation from the California Supreme Court. *See California Constitution, Article V, Section 8.*

If the Governor's office favors an application, they will most likely forward it to the BPH for investigation. *See California Penal Code § 4812(a).* A BPH investigator then interviews the candidate and investigates the situation. The BPH must notify the candidate any time it receives an application from the Governor, and must also notify the candidate of the BPH's decision to recommend or not recommend the candidate.

Submit a New Application with Each New Governor

The Governor is not required to grant, or even to consider, an application for commutation, and you may not even get a denial letter. If you applied for clemency under a different Governor than is currently in power, you should submit a new application. If you submit a new application, then you can submit any additional information or documents you want in support of your application.

If you submitted a commutation application to a prior Governor and did not receive notice of a grant, your application is deemed closed, and you should submit a new application. If you submitted a commutation application under the current Governor, and would like them to re-open your prior application and consider it, you can submit a Reapplication for Clemency. If you do that, you do not have to re-submit your prior application.

Pardons & Commutations under Newsom

As of June 26, 2020, Governor Newsom granted a total of 42 pardons and 65 commutations since taking office. “The Governor regards clemency as an important part of the criminal justice system that can incentivize accountability and rehabilitation, increase public safety by removing counterproductive barriers to successful reentry, and correct unjust results in the legal system.” Factors the Governor says he considers include: an applicant’s self-development and conduct since the offense including whether the applicant has made use of available rehabilitative programs and has identified and addressed treatment needs, the age and circumstances of the offense and the sentence imposed along with the current age of the applicant, the applicant’s need for a commutation, the applicant’s plans upon release from custody, whether the grant is consistent with public safety and in the interest of justice, and the impact of a grant on the community.

***Enclosed are all the forms needed to apply for either a commutation or a pardon.**

How To Apply For A Commutation

People who have been convicted of a crime and are currently serving their sentence in California may apply for a commutation (reduction of sentence). In deciding whether to grant a commutation, the Governor’s Office will carefully review each commutation application and consider:

- the impact of a commutation on the community, including whether the grant is consistent with public safety and in the interests of justice;
- the age and circumstances of the offense and the sentence imposed, and the age of the applicant at the time;
- the applicant’s self-development and conduct since the offense, including whether the applicant has made use of available rehabilitative programs and has identified and addressed treatment needs;
- the applicant’s need for a commutation; and
- the applicant’s plans upon release from custody.

Applicants will be notified when the Governor takes action on a commutation application.

Investigation and Review:

The BPH, a division of the CDCR, investigates commutation applications. The investigation will include a review of the applicant’s criminal history records, court and police records, and records and information about the applicant’s period of incarceration from the applicant’s C-File and other sources.

Commutation-Reapplication:

If you submitted a commutation application to a prior governor and did not receive notice of a commutation grant, your application is deemed closed. If you submitted a commutation application in the last three years and would like Governor Newsom to re-open your prior

application and consider it, you may submit a Reapplication for Clemency. To re-apply for a commutation:

- Submit a completed [Reapplication for Clemency Form](#) (1 page). Do not re-submit your original application or other documents unless requested to do so by the Governor's Office.
- Submit an [authorization for release of medical information \(Spanish Version\)](#) if you are applying for a commutation because you are suffering from a terminal illness or have a severe and chronic disability that would be substantially mitigated by release from prison or reduction of sentence.

Commutation-New Application:

To apply for a commutation for the first time or for the first time in three years:

- Submit a completed [Commutation Application](#) (2 pages) to the Governor's Office. You may, but are not required to, submit additional information or copies of relevant documents in support of your application, such as letters of support or certificates of achievement. Please do not send original documents because application materials cannot be returned;
- Submit a completed [Notice of Intent to Apply for Clemency](#) (1 page) to the district attorney in the county of the conviction for your commitment offense; and
- Submit an [authorization for release of medical information \(Spanish Version\)](#) if you are applying for a commutation because you are suffering from a terminal illness or have a severe and chronic disability that would be substantially mitigated by release from prison or reduction of sentence.

If the Governor's office favors an application, then they will most likely forward it to the BPH for investigation. *See* California Penal Code § 4812(a). A BPH investigator will then interview the candidate and investigate the situation and [name/your/your loved one's] situation. The BPH must notify the applicant any time it receives an application from the Governor, and must also notify the applicant of the BPH's decision to recommend or not recommend the applicant for clemency to the Governor

How To Apply For A Pardon

People who have been convicted of a crime in California may apply for a gubernatorial (Governor's) pardon. The Governor of California cannot grant a pardon for a conviction from another state or a federal proceeding. There are two ways to apply for a pardon in California: a Certificate of Rehabilitation and a Direct Pardon.

Pardon Application by Certificate of Rehabilitation:

One way to apply for a pardon is to first petition for and obtain a Certificate of Rehabilitation from the superior court in the county where the applicant lives. Once a court grants a petition for Certificate of Rehabilitation, the court is required to send the order to the Governor's Office, where it becomes an automatic application for a pardon. The applicant does

not need to take any further action unless contacted by the Governor's Office or the Board of Parole Hearings.

Pardon Application by Direct Request to the Governor:

The second path to apply for a pardon is to submit an application directly to the Governor's Office. In both cases, the applicant must notify the district attorney in the county of a conviction for which a pardon application has been submitted.

Before the Governor can grant a pardon application to someone who has two or more felony convictions (in different cases), a majority of the California Supreme Court must first recommend a grant of clemency. The Governor's Office will send the California Supreme Court the pardon application and all related documents for their review.

Investigation and Review:

The BPH investigates pardon applications for the Governor's Office. In deciding whether to grant a pardon, the Governor's Office will carefully review each application and consider:

- the impact of a pardon grant on the applicant's family and community, including whether the grant is consistent with public safety and in the interests of justice and, if relevant, any extraordinary circumstances that justify restoration of firearm rights or a pardon in a sex offense case;
- the age and circumstances of the offense and the age of the applicant at the time;
- the applicant's self-development and conduct since the offense, including whether the applicant has made use of available rehabilitative programs and has identified and addressed treatment needs; and
- the applicant's need for a pardon.

Pardon applicants will be notified when the Governor takes action on an application.

Pardon - Reapplication:

If you submitted a pardon application, either by a direct application or by a Certificate of Rehabilitation to a prior governor and did not receive notice of a pardon grant, your application is deemed closed. If you submitted a pardon application in the last 3 years and would like Governor Newsom to re-open and consider it, you may re-apply for a pardon. To re-apply for a pardon you must take the following step:

- Submit a completed [Reapplication for Clemency Form](#) (1 page). Do not re-submit your original application or other documents unless requested to do so by the Governor's Office or the Board of Parole Hearings.

Pardon - New Application:

Applicants who are eligible for a Certificate of Rehabilitation are encouraged to use that path to file a pardon application. Contact the Public Defender's Office in your county of residence for additional information.

To apply for a direct pardon for the first time or for the first time in three years, you must take the following two steps:

- Submit a completed [Pardon Application](#) (2 pages) to the Governor's Office. You may, but are not required to, submit additional information or copies of relevant documents in support of your application, such as letters of support or certificates of achievement. Explain extraordinary circumstances that justify restoration of firearm rights. Please do not send original documents because application materials cannot be returned; and
- Submit a completed [Notice of Intent to Apply for Clemency](#) (1 page) to the district attorney(s) in the county or counties of the conviction(s) for the offense(s) for which you are requesting a pardon.

Optional Aspects of the Clemency Application:

The Governor allows you to submit additional information or copies of relevant documents as part of the application. This is not a requirement, but we at PAN recommend that you submit supporting documents with your application because it is additional information with which BPH and the Governor may make a decision about granting clemency. Good supporting documents include: a plan for your life outside the walls (much like a parole plan), letters of support from your loved ones or CDCr staff, certificates of achievement, or documentation that you are an activist and provide advocacy support to others living inside the walls.

Please note: the Governor specifically asks that you do not send any original documents with the application. Please only send copies because you will not receive originals back from the Governor's office.

If you want to receive more information regarding how to seek clemency or to request any clemency application forms by mail, send a letter to:

Office of the Governor
State Capitol
Attn: Legal Affairs/Clemency
Sacramento, CA 95814

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We at PAN understand that you are experiencing extreme conditions of confinement during the global COVID-19 pandemic. We also understand that you are displaying great courage and resilience in seeking to better your living circumstances by fighting for your rights. PAN applauds your advocacy efforts and hopes that this letter and enclosures will be useful. Please take care.

In Solidarity,
Prisoner Advocacy Network
Under the Supervision of Jesse Stout, Esq. (CA Bar No. 284544)