



STATE OF WASHINGTON
CLEMENCY AND PARDONS BOARD
PO BOX 40116 • OLYMPIA, WA 98504-0116 • (360) 586-1445

Thank you for your interest in the Clemency and Pardons Board (Board). Article III, Section 9 of the Washington Constitution gives the Governor exclusive power to grant clemency. The term “clemency” is a general term describing a variety of different acts of mercy. The Governor can grant a reprieve, commute a sentence, grant a pardon, and restore a felon’s civil right to hold public office and own firearms. The power to grant clemency in the State of Washington only applies to crimes committed under Washington State law. The Governor does not have the authority to grant a pardon or commute a sentence for crimes committed under federal law or the laws of any other state. This power to grant clemency is an awesome responsibility, and the Governor only exercises it after careful consideration of all relevant facts.

The Washington State Legislature established the Board in 1981 to assist the Governor with the clemency process. The Board consists of up to five unpaid volunteers appointed by the Governor and confirmed by the State Senate. The Board’s responsibilities include receiving clemency petitions, publicly considering petitions during quarterly hearings, and making recommendations whether to grant/deny clemency.

The Board will not consider a Petition for Commutation/Pardon where the conviction is not ten (10) years post-conviction. On your Judgment and Sentence for your conviction you can use the date the order was entered by the court of conviction and add 10 years.

After a complete petition is received, a Preliminary Review Committee (“Committee”) reviews each petition to determine whether appearance before the full Board is warranted. When reviewing each petition, both the Committee and the Board focus on whether the petition demonstrates anything “extraordinary” about the petitioner’s case, pursuant to Revised Code of Washington (RCW) 9.94A.728(d) and RCW 9.94A.885(1). Washington law does not define “extraordinary” circumstances, and there is no limitation on the factors that the Committee may consider when making its decision to select a petition for hearing. With that said, you should understand that there is no “particular reason” for accepting a petition for further consideration. Rather, the totality of the circumstances compels the Committee in their decision.

Describing the factors that give rise to the term “extraordinary” is difficult as each member personally defines “extraordinary.”

Factors that have affected previous petitions include the following:

- The Severity of the Offense: Certain crimes are so serious and so objectionable that it would be difficult, if not impossible, to forgive punishment.
- The Impact on any Victims: Both the Committee and Board lend strong consideration to the personal appearances and/or letters from the victim(s) during the decision-making process. Also, letters or testimony from other members of the public can and do affect the final recommendation. Please note that you should never attempt to contact any victim(s) or victim’s family members.

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- The Offender's Criminal History and Other Relevant Background.
- Acceptance of Responsibility, Remorse, and Atonement.
- Compliance with All Financial Obligations Imposed by the Court.
- The Amount of Elapsed Time since the Offense Occurred.
- Personal Development and Positive Life Change since Conviction: A petitioner must demonstrate that he or she has undergone a productive change by positively affecting those around him or her as well as society at large. A petitioner may find it beneficial to submit commendations, awards, certificates of completion, transcripts, and diplomas in support of a petition. Additionally, volunteering to assist the community or aid the less fortunate reflects a productive personal change as well as a benefit to the community.
- Any Benefit or Risk to the Community: The petitioner's actions should reflect his/her efforts to live a responsible productive life and/or give back to the community. To support a favorable recommendation, petitioners often submit letters of support from persons who hold positions of respect and trust in the community – local law enforcement officials, community leaders, employers, coworkers, etc. The author of the letter should know the petitioner and acknowledge awareness of the crime from which the petitioner seeks relief. Substantial contact with law enforcement authorities after the criminal conviction may be cause for a recommendation to deny the petition.
- Position of Prosecuting Attorney and/or Sentencing Judge: If a petition is selected for hearing before the full Board, Washington statute requires that we notify the prosecuting attorney who prosecuted the crime. The prosecuting attorney is then given the opportunity to provide comments to the Board (and therefore to the Governor) on whether clemency is justified. Typically, a prosecuting attorney will be either neutral or unresponsive. However, when available, a prosecuting attorney's adverse response may have a detrimental impact on the Board's decision. Conversely, a favorable response oftentimes positively impacts the decision. While there is no requirement to notify the sentencing judge, his or her comments may also have a substantial impact on the petition. With these factors in mind, you may contact the prosecuting attorney who tried the case or the sentencing judge at your discretion and request support for the petition.

As described above, the petitioner is responsible for submitting information and supporting documentation that demonstrates extraordinary circumstances warranting relief.

You are limited to **60 pages in your initial Petition packet**, in addition to the actual petition form and the required Judgment and Sentence and the required charging documents, *i.e.*, Probable Cause, Information, Indictment, and/or Complaint for which relief is being sought. The Board reserves the right to return any petition packet that exceeds the **60-page limit** without review, with

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instructions to correct and resubmit. Petitioners will be notified of the issue and may resubmit a compliant packet within a specified timeframe.

If your file is selected for hearing, you may submit any remaining documents for the Board's review up to **two (2) weeks** before the hearing date. While this information cannot guarantee consideration before the full Board or clemency from the Governor, everything that demonstrates a petitioner's efforts to make amends and become a valuable member of society encourages a favorable outcome. Unfortunately, the Board often finds it necessary to deny a request for hearing or, if set for hearing, deny the petition altogether simply because the applicant failed to provide sufficient supporting information.

The Board may only make a recommendation to grant clemency after considering the petition before a public hearing, pursuant to Chapter 9.94A.885(3), RCW. Therefore, Board hearings are open to the public and any information that the Board obtains may be subject to public disclosure under the Washington Public Records Act, Chapter 42.56 RCW. A court reporter records and transcribes all Board hearings, and the state public affairs network, TVW, broadcasts the hearings.

At the hearing, the petitioner, his/her family, and character witnesses may advocate on behalf of the petition. Although not required, a petitioner may also elect to obtain legal representation. The County Prosecutor's Office where the crime was committed as well as the victims, if applicable, and their families are entitled to speak at their discretion. After listening to the statements of interested parties, the Board openly discusses the petition and votes on whether to recommend that the Governor grant clemency. There are no specific guidelines that bind the Board's decisions. Each Board member votes based on his/her experience in life and interpretation of the petition. The Board then forwards its recommendation to the Governor's office.

The Governor is not bound by the Board's recommendation. The Governor reviews the full case in detail and may conduct his/her own investigation. Only after fully understanding the circumstances of the crime and the reason for the petition does the Governor make a final decision. Clemency is granted in the rarest and most extraordinary cases, and the Governor is free to place conditions on a pardon or commutation, such as requiring a conviction-free record for a specified period following clemency. Failure to abide by any such conditions may be grounds to ultimately deny clemency or have clemency revoked.

A commutation is the reduction of criminal penalties in terms of imprisonment and is often conditional. A commutation does not nullify the conviction. Additionally, a commutation is not a contract, possible settlement or offer requiring legal advice from a lawyer as to whether to accept or reject it. Nor is a commutation comparable to a court proceeding or order of judgment. The process is strictly administrative, as is the commutation. Neither a pardon nor a commutation is a right, duty or privilege. A person cannot earn or deserve either.

If the petitioner is, or was, incarcerated, it is the expectation of the Board that the petitioner is not found to have committed any serious infractions for no less than **three (3) years** prior to the submission of the Petition. Additionally, it is the expectation of the Board that the petitioner is not found to have committed any serious infractions through the date of which the clemency hearing

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takes place. If a petitioner is found to have committed a serious infraction during this between time that their petition is granted a hearing and the date of the actual hearing, the petition will be removed from the hearing list and the petitioner will need to wait **three (3) years** before they can submit a new petition.

If the Governor grants a pardon, the Governor's Office sends a copy of the pardon to the Washington State Patrol (WSP) and requests that they remove the conviction from the petitioner's criminal history available to the public. However, the conviction remains on a separate criminal history available to law enforcement and others who are entitled to non-conviction data under chapter 10.97 RCW. The Governor's Office also requests that the WSP add a note to the restricted criminal history reflecting the pardon.

The Governor does not have the authority to expunge or vacate a criminal record; only the courts have that authority. Also, a pardon does not automatically remove the record of the conviction from court files and does not relieve the party from reporting the conviction on an application for employment. The party may, however, indicate the receipt of a Governor's pardon. Other remedies allow a party to state that he/she has never been convicted of a crime, such as the vacation of a criminal record in accordance with RCW 9.94A.640.

The Board generally reviews and hears Petitions for pardon or commutation only in cases in which judicial remedies for the conviction have been concluded to a final decision. Additionally, all direct appeals must be exhausted or the time within which to appeal has expired. This generally means that (1) a petition will not be heard until all direct appeals have been exhausted or until the time within which to appeal has expired; (2) for commutations, the prosecuting attorney has completed their review of a **SB 6164** request; if they have not, a petitioner would need to indicate the date the **SB 6164** request was received by the prosecuting attorney; and (3) the petitioner has tried, if available, to vacate their conviction in the court of record, and was denied. In most cases, and as determined by members of the Preliminary Review Committee, the Board will not consider a Petition for Pardon/Commutation where the conviction is not **ten (10) years** post-conviction. Absent unique or emergency circumstances, the Governor will not consider a request for pardon or commutation unless a petition has been submitted to the Board.

If all other remedies are already exhausted, please include documentary evidence demonstrating your efforts and the Court's decision.

After you complete the petition and send it to the Board, the petition will be reviewed in the order it was received. Within a year, the Board may receive hundreds of petitions for pardon or commutation, so be patient as this is a thorough and time-consuming process.

We will not return documents. Except for the signed signature page and Waiver and Authorization to Release Information, *please do not submit original documents.*

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If you have any additional questions, comments or concerns regarding the clemency process, please do not hesitate to contact me.

Sincerely,

Tina Bushaw

Tina Bushaw
Paralegal 3 - Office of the Attorney General
Clemency and Pardons Board Support Staff
(360) 586-5147

INSTRUCTIONS FOR FILING A PETITION FOR REPRIEVE, COMMUTATION, OR PARDON

Please read all the Instructions for Filing a Petition. Complete the Petition for Reprieve, Commutation or Pardon form in its entirety, giving detailed information, and when necessary, attaching additional sheets of paper sufficient to provide a response. **Each section must be completed and each box checked appropriately. Please do not write “see attached.”**

There are two ways to submit a Petition.

1. The Washington State Clemency and Pardons Board (“Board”) prefers to receive and send Board related notices and materials in electronic format whenever possible. In keeping with this process, we ask that you submit your petition electronically in an Adobe Reader compatible format via email to CPBoard@atg.wa.gov. After the petition is received electronically, an email will be sent confirming receipt of the petition. Please be patient as we occasionally experience high volumes of petitions for clemency.

We have found that by communicating with the petitioner via email, we can provide a faster and more efficient application processing time.

2. If you do not have access to a computer and/or the internet, you may mail your petition to:

**Washington State Clemency and Pardons Board
Office of the Attorney General
PO Box 40116
Olympia, Washington 98504-0116**

If you are submitting your Petition by mail, please only enclose **one** petition and all attachments. We do not conform copies and return them to you. Do NOT send original documents as attachments because we will not return them.

Please carefully read the instructions below to ensure you allow for timely processing of your petition. Failure to comply with these instructions may result in a request for more information or, in some instances, rejection.

Digital signatures are not accepted. **You may provide your signed signature page and signed Waiver and Authorization to Release Information page to us electronically. This is the preferred method.** If you choose to electronically submit the pages, please ensure the scans are clear, complete, and the signature is clearly visible. We reserve the right to request a hard copy of the signed pages. The email address these pages can be sent to is cpboard@atg.wa.gov. If you choose to mail the signature pages, the address is specified above.

All petitioners must affix their own signature to their petition. A signature from petitioner’s counsel, or any other party or representative are not permitted and will result in the rejection of the petition. **The petition will not be accepted for a review or hearing unless there is an original handwritten signature.** This policy ensures the authenticity and integrity of all petitions submitted and confirms that the individual listed as petitioner is the one who initiated the action and is in full agreement with its contents.

The Board does not consider misdemeanor or gross misdemeanor convictions, even if you are also requesting clemency for a felony conviction.

To ensure consistency, efficiency, and fairness in the preliminary review process, petitioners must limit their initial petition packet to no more than **60 pages**, inclusive of all supporting documentation, attachments, and exhibits. This limit does not include the required Petition Form, Judgment and Sentence, and charging documents (e.g., Probable Cause, Information, Indictment, Complaint). Petitions exceeding the **60-page limit** will be deemed non-compliant. The Board reserves the right to return any petition packet that exceeds the limit without review, with instructions to correct and resubmit. Petitioners will be notified of the issue and may resubmit a compliant packet within a specified timeframe.

For incarcerated individuals you are required to provide your DOC infraction history (only founded infractions). If you are not able to obtain a copy of your DOC infraction history, please flag this for us and we will obtain a copy for our records. If your file is selected for hearing, you can submit any remaining documents for the Board's review up to **two (2) weeks** prior to your hearing date.

A copy of the Judgment and Sentence and charging document from which the petitioner seeks relief are mandatory. A copy of the Judgment and Sentence and charging document can be obtained by contacting the Clerk of the Court where the petitioner was sentenced; or, if incarcerated, by requesting a copy from the petitioner's Central File. The Governor cannot pardon a federal criminal offense or a conviction from another state.

List in your attachments how many letters in support you have, you do not need to send them in until the Board decides if you are granted a hearing. You are strongly encouraged to provide letters of recommendation from all sources. Letters of recommendation must state the full name, address and daytime telephone number of the author and acknowledge the author's awareness of your conviction and intent to request a pardon or commutation.

List commendations, awards, certificates of completion, transcripts and diplomas you have achieved. Do not add them to the petition unless you have been granted a hearing. Please do not submit original documents as they will not be returned to you. We randomly verify authenticity of submitted documentation. **Do not** attach tax returns, paycheck stubs, or other financial documents.

If you are granted a hearing, and have copies of the following documents, it may be helpful to provide the Board with a copy:

- Psychological Evaluation Reports provided to opposing counsel by either party or filed with the court by either party.
- Sex Offender Evaluation Reports provided by the defense to opposing counsel or to the Court.
- Medical Reports or records provided by the defense to opposing counsel or to the Court.
- Plea Agreement.
- The Statement of Defendant on plea of guilty.
- Department of Corrections Pre-Sentence Report.
- Sentencing memoranda filed by either party.
- No Contact / Restraining Orders.

Failure to complete every section on the petition form may render the submission as incomplete.

DO NOT write “See attached.” Use the space provided to start answering the question and include any information that does not fit in the space on a separate piece of paper.

DO NOT staple or otherwise permanently bind your petition and/or any portion of the attachments. A petition with attachments may be clipped, clamped, placed in three-ring binders, or otherwise packaged in a temporary fashion.

DO NOT enclose your Petition and/or attachments in plastic sheet protectors.

DO NOT submit double-sided documents in the original petition as this interferes with the scanning process.

DO NOT use tabs or other dividers as this interferes with the scanning process.

The petition and materials submitted with it will become property of the Office of the Governor and will not be returned to the petitioner. Please keep a copy of the petition and attachments for your personal records.

Please be aware that all or some information on the petition, including attachments, and any information obtained by the Clemency and Pardons Board staff may be considered public record and subject to public disclosure under the Washington Public Records Act, chapter 42.56 RCW.

Written notification must be given to the Clemency and Pardons Board if you change your email address, place of residence, telephone number or place of employment prior to the final disposition of the petition. If you are convicted or charged with a new offense after filing your petition, please notify the Clemency & Pardons Board immediately.

If you decide to withdraw your petition, you must notify the Clemency and Pardons Board immediately in writing at the address below. If you withdraw your petition after it is scheduled for a hearing, you will need to wait **two (2) years** before submitting a new petition.

Although not required, you have the right to retain counsel to prepare your petition and, if selected for hearing, to represent you at the hearing. **If you acquire legal counsel, all further communications between you and the Board Staff must be through your attorney.**

Please understand that the Governor only grants clemency under the most rare and exceptional of circumstances. Restoration of firearms rights requires personal action by the Governor through his pardon power. To date, firearms rights have rarely been restored—and in fact those rights have specifically *not* been restored in most pardons granted. Requests for restoration of the right to possess firearms are treated the same as any other request for clemency. The Federal government, Division of Alcohol, Tobacco, and Firearms has the power to restore firearms rights. However, we understand that Congress has barred them from exercising that power.