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**EXECUTIVE CLEMENCY MANUAL**  
**Firearms & Pardons**  
**Commutation of Life and Non-Life Sentences**

October 2020  
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## **IOWA CODE: Firearms & Pardons**

- **Codes to Refer to:**

- 914 Executive Clemency
- 914.7 details the offenses for which firearm possession is not permitted
- 724 are weapons offenses that mostly prohibit future possession
- 702.11 details what is considered a forcible felony

- **914.1 Powers of Governor:**

- The powers of the Governor under the Constitution of the State of Iowa to grant a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, and restoration of the rights of citizenship.

- **914.3 Right of Application:**

- Except as otherwise provided in section 902.2, a person convicted of a criminal offense has the right to make application to the Board of Parole for recommendation or to the Governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of rights of citizenship at any time following the conviction.

- **914.3 Recommendations by the Board of Parole:**

- Except as otherwise provided in section 902.2, the Board of Parole shall periodically review all applications by persons convicted of criminal offenses and shall recommend to the Governor the reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of the rights of citizenship for persons who have by their conduct given satisfactory evidence that they will become or continue to be law-abiding citizens.
- The Board of Parole shall, upon request of the Governor, take charge of all correspondence in reference to an application filed with the Governor and shall, after careful investigation, provide the Governor with the Board's advice and recommendation concerning any person for whom the Board has not previously issued a recommendation.
- All recommendations and advice of the Board of Parole shall be entered in the proper records of the Board.

- **914.4 Response to Recommendation:**

- The Governor shall respond to all recommendations made by the Board of Parole within ninety days of the receipt of the recommendation. The response shall state whether the recommendation will be granted and shall specifically set out the reasons for such action. If the Governor does not grant the recommendation, the recommendation shall be returned to [Iowa Code 2020, Chapter 914 (13, 0) §914.4, CRIMINAL SENTENCE RELIEF AND RESTORATION OF RIGHTS 2] the Board of Parole and may be refiled with the Governor at any time. Any recommendation may be withdrawn by the Board of Parole at any time prior to its being granted. However, if the Board withdraws a

recommendation, a statement of the withdrawal, and the reasons upon which it was based, shall be entered in the proper records of the Board.

- **914.7 Rights Not Restorable:**

- Notwithstanding any other provision of this chapter, a person who has been convicted of a forcible felony, a felony violation of Chapter 124 involving a firearm, or a felony violation of Chapter 724 shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms. Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

- **702.11 Forcible Felony:**

- A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, human trafficking, arson in the first degree, or burglary in the first degree.
- Notwithstanding subsection 1, the following offenses are not forcible felonies:
  - a. Willful injury in violation of section 708.4, subsection 2.
  - b. Sexual abuse in the third degree committed between spouses.
  - c. Sexual abuse in violation of section 709.4, subsection 1, paragraph "b", (3) subparagraph division (d)
  - d. Sexual exploitation by a counselor, therapist, or school employee in violation of section 709.15.
  - e. Child endangerment subject to penalty under section 726.6, subsection 6.
  - f. Assault in violation of section 708.2, subsection 4.
  - g. Domestic abuse assault in violation of section 708.2A, subsection 5.
  - h. Removal of an officer's communication or control device in violation of section 708.12, subsection 3, paragraph "f".

- **724.1 Offensive Weapons:**

- An offensive weapon is any device or instrumentality of the following types:
  - a. A machine gun. A machine gun is a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger.
  - b. Any weapon other than a shotgun or muzzle loading rifle, cannon, pistol, revolver or musket, which fires or can be made to fire a projectile by the explosion of a propellant charge, which has a barrel or tube with the bore of more than six-tenths of an inch in diameter, or [Thu Dec 05 12:14:07 2019 Iowa Code 2020, Chapter 724 (40, 3) §724.1, WEAPONS 2] the ammunition or projectile therefore, but not including antique weapons kept for display or lawful shooting.
  - c. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an

explosive charge of more than one-quarter ounce; or any device similar to any of these.

- d. A ballistic knife. A ballistic knife is a knife with a detachable blade which is propelled by a spring-operated mechanism, elastic material, or compressed gas.
- e. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in paragraphs “a” through “d”, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.
- f. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact, or any shotshell or cartridge containing exothermic pyrophoric misch metal as a projectile which is designed to throw or project a flame or fireball to simulate a flamethrower.

- An offensive weapon or part or combination of parts therefore shall not include the following:
  - a. An antique firearm. An antique firearm is any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or centerfire fixed ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
  - b. A collector’s item. A collector’s item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not likely to be used as a weapon. The commissioner of public safety shall designate by rule firearms which the commissioner determines to be collector’s items and shall revise or update the list of firearms at least annually.
  - c. Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition. [C27, 31, 35, §12960-b1; C39, §12960.01; C46, 50, 54, 58, 62, 66, §696.1; C71, 73, 75, 77, §696.1, 697.10, 697.11; C79, 81, §724.1

- **Eligibility:**

- Requirement: Five years since discharge in order for applicants to apply for their Special Restoration of Citizenship (Firearms) and ten years since discharge to apply for a Pardon.
- Applicants who have a conviction in Federal Court must apply through the U.S. Pardon Attorney.

- Applicants whose convictions were outside of Iowa must apply with the State they received their conviction from.
  - If Applicants are denied, there is not a restriction on when they can apply again.
- **Process:** It may take approximately two years from the date the applicant submits an application to the Board of Parole.
    - Board of Parole Staff review the applications. Two staff members submit their recommendations.
      - The first Staff member reviews all the documentation in the file and ensures that the applicant met the requirements. If the applicant is missing required documentation then the first Staff member sends the full application back to the applicant along with a letter listing all the requirements/eligibility as well as the application with the directions. There are exceptions to the rule and Staff use their discretion. Ex. An applicant committed his offense in the 1970's and does not have his proof of payments. Considering how old the crime is and if the applicant has all the other requirements, Staff would still process his application.
      - The first Staff member reviews all documents in file and utilizes ICON movements to confirm the discharge date of supervision as well as the charges screen. The first Staff member may also use Iowa Courts Online to find additional charges that may not require DOC supervision. If the applicant lives out of state, it is encouraged to contact HR and request an NCIC check on the applicant.
    - The two Staff members separate the applicants into two different stacks. One, a potential denial stack and a potential DCI stack. If denied, the application goes to the Board of Parole for review. If the Board agrees with the denial, then the application gets delivered to the Governor's Office. If the Board decides it is not a denial then the application will go to DCI for further investigation. If DCI stack, the pile goes to the Chair or Vice Chair to review. If the Chair or Vice Chair decides on a DCI referral, the application goes to DCI for further investigation.
    - Once DCI returns the application with the updated investigation, the Board of Parole reviews the application. A panel of three Board members shall review and vote on the application. If three board members vote and it is not unanimous, it will proceed to a five panel vote. Once it proceeds to a five-person panel, the majority vote is the final decision (this is also the process for immediate denials from the Chair/Vice Chair).
    - The grants and denials for Firearms/Pardons are sent to the Governor's Office and the Governor has 90 days to make a decision from the day of the recommendation receipt.

All files including the DCI CD and the votes from the Board get hand delivered to the Governor's Office.

- In every stage of the process, the first Staff member documents the date or at least the month in the Executive Clemency Spreadsheet. This also includes the final decision from the Governor's Office.

- **Guidelines for Staff to Follow:**

- Read application in its entirety
  - Refer to "Guidelines for Board Members to Follow" below in order to know what to look for when reading the application materials.
- Generally send back if application is incomplete. Consider period of conviction and consider any attempts the applicant might explain.
- Deny if the applicant discharged less than five years (Firearms) or ten years (Pardon) ago.
- Generally deny if the applicant fails to disclose information about his or her conviction(s).
- Deny Firearms if applicant is barred:
  - Forcible felonies alone do not necessarily bar an applicant. If an applicant was convicted of a forcible felony (702.11) and was in possession of a firearm/weapon (724), then the applicant is barred from receiving his/her firearm rights.
  - Applicants convicted of domestic abuse greater than a simple domestic are automatically barred from restoring their firearm rights.
- Applicants who have been convicted of forcible felonies involving a weapon can still be considered for a pardon.
- Staff will need to refer to ICON and Iowa Courts Online in order to confirm convictions.
- Staff also will need to check *Movements* in ICON to verify discharge date.

- **Guidelines for Board Members to Follow:**
  - **Initial Review Page:** (approximately less than five minutes)
    - Recommendation comments from two staff members
  - **Application:** (approximately ten minutes-depends on how lengthy the application is)
    - What to look for:
      - Employment (Stability)
      - Education
      - Volunteerism
      - Military
      - Accountability and remorse
      - A good rationale for wanting firearm restoration/pardon
      - Positive letters of recommendation
      - Discharge date
      - Non-violent crime (Is not required; however, more favorable)
  - **DCI Report:** (approximately 15-20 minutes total)
    - Synopsis
    - Generally three exhibits (could be more, could be less)
  
- **BOP Protocol if/when the Governor Returns a Clemency Application After the Board has Voted an Application:**
  - The Board of Parole must receive a dated memo from the Governor's Office requesting to review the applications.
  - The Board of Parole members will not re-vote on applications unless new information has arrived.
  - The Clemency Coordinator will review the applications and ensure there has been no additional information.
  - The Clemency Coordinator will draft a document stating that each application sent back to the Governor's Office was reviewed and whether there was or was not any additional information.
  - The Vice Chair or Chair will sign off on that document and send to the Governor's Office.

- **Governor's Decision:**

- The Clemency Coordinator shall receive a notification from the Governor's Office along with the letter sent to the Executive Clemency Applicant. The Clemency Coordinator shall save the letters in Email under *Correspondence with the Governor* as well as placing the hard copy file in a folder for future reference.

**For additional information, please refer to**

**<https://governor.iowa.gov/pardons-firearm-rights-and-commutations>**



## **IOWA CODE: Commutation of Life Sentences & Non-Life Sentences**

- **Codes to refer to:**

- 914 Executive Clemency
- 902.2 Individuals serving a Life Sentence (Class A felony) are required to be interviewed by the Board of Parole as a component of their investigation.

- **914.3 Right of Application:**

- Except as otherwise provided in section 902.2 a person convicted of a criminal offense has the right to make application to the Board of Parole for recommendation or to the Governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of rights at any time following the conviction.

- **914.1 Powers of Governor:**

- The powers of the Governor under the Constitution of the State of Iowa to grant a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, and restoration of the rights of citizenship.

- **902.2 Commutation Procedure for Class “A” Felons:**

- 902.2 Commutation procedure for class “A” felons. A person who has been sentenced to life imprisonment under section 902.1 may, no more frequently than once every ten years, make an application to the Governor requesting that the person’s sentence be commuted to a term of years. The Director of the Iowa Department of Corrections may make a request to the Governor that a person’s sentence be commuted to a term of years at any time. Upon receipt of a request for commutation, the Governor shall send a copy of the request to the Iowa Board of Parole for investigation and recommendations as to whether the person should be considered for commutation. The Board shall conduct an interview of the class “A” felon and shall make a report of its findings and recommendations to the Governor.

- **Non-Class A Offenses & Applications:**

- Individuals serving time with a mandatory minimum are not eligible for an annual review by the Board of Parole. Incarcerated individuals may apply for a commutation of sentence if they have not received a prior recommendation for or against commutation of their sentence.

- **Class A Offenses & Applications:**

- If an individual is serving a life sentence, they may only make application once every ten years for a recommendation of commutation.

- The Board considers the year requirement to be from the date the application is received by the Board, not the recommendation to the Governor or the decision of the Governor.

### Commutation Application Processing:

- Application is received at the Iowa Board of Parole and scanned in by the Administrative Executive Assistant under Board of Parole correspondence.
  - a. Application is provided to liaison staff for initial review if applicant is eligible to apply and/or sufficiently completed the requirement, set out in the application instructions.
  - b. The Commutation Liaison enters the information on the commutation spreadsheet as a received application.
  - c. If applicant is not eligible or if their application is incomplete, the liaison drafts a letter to applicant and returns the application to sender. The application is then marked as “closed” on the commutation spreadsheet.
- If the applicant is eligible, the Commutation Liaison drafts and sends a letter to the applicant acknowledging receipt of application and notes the investigation will begin.
  - a. If the application is for a Class “A” offense, the letter includes information regarding a future notification when the Board schedules an interview, pursuant to 902.2
  - b. If the application is for a Non-Class “A” offense, the applicant receives a letter informing them they will receive future notification of the Board’s recommendation to the Governor. If the Board decides to grant an interview, they will receive notification in compliance with the Iowa Code regarding an interview date.
- Commutation Liaison Officer pulls the file from the file room, depending on date of initial incarceration. (Some offenders who apply were received at IMCC prior to electronic records. Therefore, their original correspondence and file records are still maintained in a paper file).
- Once the prior commutation information or paper file is retrieved, the liaison checks Iowa Corrections Offender Network (ICON) for any court documents or relevant information pertaining to the application.
- A commutation application file is compiled using existing information as well as any correspondence that may have been received by the Board since the date of application.

## Duties of the Commutation Liaison for Class A Applications:

Updated by Noel Rix on 2/2/2021

- The Commutation Liaison emails the Institutions' wardens and treatment directors informing them of the date of commutation hearings for each incarcerated individual.
- The Commutation Liaison sends a request to the Institutions' wardens and treatment directors requesting a warden's recommendation and sometimes a psychological evaluation. If the incarcerated Individual does not have a mental health diagnosis then a psychological evaluation is not necessary. It is important to give the institutions at least a one-month notice to compile the information.
- The Commutation Liaison will draft and send a notification letter to the registered victims at least twenty days in advance of the hearing, per Iowa Code.
- The Commutation Liaison will also draft and send a notification to the incarcerated individual by mail. The Liaison will send this notification by email to the Institutions' wardens, treatment directors, and the counselors of each incarcerated individual.
- The Commutation Liaison will send each file to the board members approximately a week before the commutation hearing in order for them to prepare.
- Once commutation hearing is complete and a recommendation has been made by the board members, the Commutation Liaison will have approximately one week to deliver the files to the Governor's Office.
- The Commutation Liaison will draft a letter to the Governor with brief information about the offender and the board's decision. The Liaison will have the Vice Chair or Chair review and sign off on it.
- The Liaison will organize the file by the Table of Contents and deliver the file to the Governor's Office.
- The Table of Contents:
  - a.) The Chair's Letter to the Governor
  - b.) Board of Parole Voting Sheet
  - c.) Commutation Application
  - d.) Board of Parole Docket
  - e.) Department of Corrections Recommendation and Psych Eval
  - f.) Court Documents (Reception Report/Classification Report, Minutes of Testimony, Trial Information, Sentencing Orders, PSI, etc.
  - g.) Letters of Support/Letters from Incarcerated
  - h.) Transcript of Interview (Digital Copy)

## **Non-Class A Commutation Process:**

Updated by Noel Rix on 2/19/2021

- The Victim Services and Clemency Coordinator will fill in the questions located on the Staff Initial Review, look into ICON (court documents, disciplines, and generics, and make a Staff recommendation to either refer to Counselor's rec or deny.
  
- The Secondary Clemency Coordinator will also look into ICON for the info and document anything the previous coordinator did not document. This coordinator will also make their recommendation to either refer to Counselor or deny.
  
- The Victim Services and Clemency Coordinator will compile a list of applicants that Staff have recommended as deny and refer to counselor. This list will be given to a designee most likely the Chair or Vice Chair to determine deny or request more information (refer to counselor).
  
- If denied, the designee will be one vote and then two other votes will be needed from the board. If it is not a unanimous deny then two more board members will need to vote for a total of 5 board members.
  
- If an application is referred onto a Counselor then the Victim Services and Clemency Coordinator will request a recommendation from the Counselor, a psych eval if there is a diagnosis, and a tentative release plan from the incarcerated individual (II).

\*Note: The release plan will not be an official release plan in ICON. The counselor will not have to contact the residence or RTF. This is just to show that the II has put forth effort into a tentative release plan.

- Once the information is retrieved from the Counselor, the Victim Services and Clemency Coordinator will give the information with the file to the designee. The designee will determine whether to deny (follow above process) or to grant an interview.
  
- Five board members will be present for the interview and there must be a majority vote. The board members are making their recommendation whether to commute the original sentence.

- The Victim Services and Clemency Coordinator will then tab the file by the Table of Contents (similar to the Class A), include the letter to the Governor, the votes, and the disc of the recorded interview. The file will be delivered to the Governor's Office accordingly.

\*Note: The Governor's Office will have 90 days to make and send their decision to the BOP. The Commutation Liaison for Class A and Non-Class A applications will document their decision in the Commutation Spreadsheet and place the official decision in the applicants file.