

## **CHAPTER 12-55.1 PARDON ADVISORY BOARD**

### **12-55.1-01. Definitions.**

In this title, unless the context otherwise requires:

1. "Commutation" means the change of the punishment to which a person is sentenced to a less severe punishment.
2. "Conditional pardon" means a pardon, commutation, reprieve, or remission of fine subject to terms and conditions established by the governor upon the recommendation of the pardon advisory board.
3. "Department" means the department of corrections and rehabilitation.
4. "Pardon" means the removal of punishment or custody imposed upon a person for the commission of an offense. A pardon does not remove the fact of that person's conviction or plea or finding of guilt for an offense unless specifically stated in the certificate of pardon.
5. "Remission of fine" means a release or partial release of a fine.
6. "Reprieve" means a temporary relief from or postponement of the execution of a criminal sentence.

### **12-55.1-02. Pardon advisory board - Membership.**

The governor may appoint a pardon advisory board to consist of five members including the attorney general and two members of the parole board. The governor shall appoint two persons who are residents and citizens of this state to the remaining two positions. The governor shall appoint a chairperson from within the membership of the pardon advisory board. The governor may dissolve the pardon advisory board at any time. The members appointed by the governor are entitled to be paid compensation and expenses at the same rate paid to members of the legislative assembly. The board shall provide information and make recommendations to the governor concerning any matters before the governor under this chapter.

### **12-55.1-03. Pardon advisory board meetings - Rules.**

If the governor appoints a pardon advisory board, the pardon advisory board may adopt rules necessary to govern its proceedings, including the time and place of meetings of the board. The governor may call meetings of the pardon advisory board as the governor deems necessary to carry out the board's duties.

### **12-55.1-04. Governor may remit fines and grant commutations, pardons, and reprieves.**

The governor has the power to remit fines and grant commutations, reprieves, pardons, and conditional pardons after judgment of conviction. If the governor grants a conditional pardon, the pardon must state the terms and conditions of the pardon. The governor shall sign every commutation, reprieve, pardon, conditional pardon, or remission of fine granted by the governor. The recommendations of the pardon advisory board and the determination of the governor are not reviewable by any court.

### **12-55.1-05. Pardon clerk - Duties.**

The director of the department of corrections and rehabilitation or the director's designee shall serve as the pardon clerk under this chapter. The pardon clerk shall:

1. Maintain a register of all applications filed for commutation, reprieve, pardon, conditional pardon, or remission of fine and shall maintain a complete and accurate record of all proceedings in connection with the applications, including all correspondence, documents, evidence, and appearances made in connection with the application.
2. Conduct investigations, employ psychologists, psychiatrists, or other specialists necessary for the determination of matters before the pardon advisory board or the

governor under this chapter, and perform other duties in connection with matters under this chapter as may be requested by the pardon advisory board or the governor.

3. Maintain a record of every commutation, reprieve, pardon, conditional pardon, or remission of fine granted or refused, along with the reasons for each action.

**12-55.1-06. Application for commutation, reprieve, pardon, conditional pardon, or remission of fine.**

An application for commutation, reprieve, pardon, conditional pardon, or remission of fine must be made with the pardon clerk on a form prescribed by the clerk and in accordance with any rules adopted under this chapter.

**12-55.1-07. Notice of application.**

The pardon clerk shall provide written notice of an application for a commutation, reprieve, pardon, conditional pardon, or remission of fine to the district court and the state's attorneys in the county or counties where the judgment of conviction was entered against the applicant. The notice must include the name of the applicant, the date of entry and docket number of the criminal judgment, the crime or crimes stated in the criminal judgment, and the date and place for the meeting on the application.

**12-55.1-08. Governor may reconsider action.**

If the governor has granted an application for a commutation, reprieve, conditional pardon, or remission of fine and the applicant is still in custody in any correctional facility, the governor may reconsider the decision any time before the applicant is released from the correctional facility. If an applicant is released from custody pursuant to a conditional pardon and the applicant has violated any of the terms or conditions of the conditional pardon, the governor may revoke the conditional pardon in the same manner provided for violation of any of the terms or conditions of parole. In all other cases, the governor may reconsider a decision on an application if the reconsideration is made within thirty days from the date of the initial decision. A decision made on reconsideration may not be reviewed by any court.

**12-55.1-09. Statements of judge and state's attorney.**

The judge and the state's attorney may make any recommendations that may be of assistance to the governor, pardon advisory board, or parole board in considering the person's case. The judge before whom any person has been convicted of a felony and the state's attorney of the county in which the crime was committed may file with the clerk of court separate official statements that may include:

1. The facts and circumstances constituting and surrounding the crime for which the person was convicted.
2. The age of the person.
3. All available information regarding the person before the commission of the crime for which the person was convicted.
4. All available information regarding the person's habits, associates, disposition, and reputation.
5. All facts and circumstances that may indicate whether the person is capable of becoming a law-abiding citizen.
6. The state's attorney's reasons for the recommended sentence and the court's reasons for the sentence imposed.

**12-55.1-10. Duty of court reporter and clerk of court.**

The court reporter, at the direction of the judge or state's attorney, shall prepare the official statements of the judge and state's attorney. The clerk of court with whom the statements are filed shall attach a copy of the statements to the criminal judgment. The clerk shall provide to the department the criminal judgment with the attached copy of the official statements.

**12-55.1-11. Records.**

The records of an applicant for commutation, reprieve, pardon, conditional pardon, or remission of fine are subject to section 12-47-36. The pardon clerk may permit the inspection of an application for a commutation, reprieve, pardon, conditional pardon, or remission of fine; the recommendations of the pardon advisory board, if any; and the decision of the governor, including any decision made after reconsideration or after proceedings for revocation.