

INFORMATION ON APPLICATIONS FOR EXECUTIVE CLEMENCY (PARDONS, COMMUTATIONS, ETC.)

Oregon law gives the Governor executive clemency power. This means that the Governor has the power to grant pardons, commutations, reprieves, and remissions of fines.

You should be aware that clemency will be granted only in exceptional cases when rehabilitation has been demonstrated by conduct as well as words.

You must decide which type of clemency (pardon, commutation, etc.) best applies to your particular situation. You must also provide the Governor with the necessary information to let him make a decision on your application. It is your responsibility to provide the Governor with any information you believe will be helpful. If you do not provide the information required, your application may be denied on that basis alone.

The Types Of Executive Clemency:

The types of clemency are pardons, commutations of sentence, reprieves, and remission of fines:

- 1) A pardon forgives a person for the crime that person committed. Only in extraordinary cases will the Governor consider granting a pardon while a person is still serving a sentence either in a penal institution or on parole.
- 2) A commutation substitutes a less severe punishment for the original sentence that the person was given.
- 3) A reprieve is temporary relief from your punishment.
- 4) The remission of fines is a reduction or cancellation of court-ordered fines imposed against you.

If you have been convicted of multiple crimes, your application should specify which crime or crimes you wish the Governor's power of executive clemency to operate upon; you should also provide separate reasons why the Governor should grant clemency for each crime if seeking clemency for multiple crimes. **Be advised that operation of executive clemency to more than a single conviction is unlikely.**

Additionally, you should be aware that the Governor regards executive clemency as an extraordinary remedy of last resort. Therefore, it is highly unlikely he will consider applications based upon allegedly wrongful convictions where applicants have not fully exhausted their appellate, post-conviction, and habeas corpus remedies. **Thus, if you feel you deserve clemency because you believe you were wrongfully convicted, you should not apply until you have fully exhausted all such available remedies.**

NOTE REGARDING AVAILABILITY OF JUDICIAL EXPUNGEMENT

Generally, the Governor will not exercise his clemency power to pardon applicants for crimes which the law allows a court to set aside; therefore, you should not file an application if you qualify for judicial expungement under ORS 137.225 and have not sought such expungement. A copy of ORS 137.225 is attached.

If a court sets aside your conviction, under ORS 137.225 you are able to represent to prospective employers that you have not been convicted of that crime. You may be eligible for such a set-aside if:

- 1) three years have passed since the date judgment was pronounced, and
- 2) you have fully complied with and performed the sentence of the court, and
- 3) the crime for which you were convicted was one of the following:
 - i. a Class C felony, with the exception of certain sex crimes;
 - ii. possession of marijuana where that crime was punishable as a felony only;
 - iii. crimes punishable as either a felony or a misdemeanor, with the exception of sex crimes;
 - iv. a misdemeanor for which jail time was imposed, with the exception of sex crimes;
 - v. a violation under state law or local ordinance;
 - vi. certain crimes committed before January 1, 1972, and
- 4) ten years have passed from the date of any conviction other than the one which you wish the court to set aside and the date you petition the court.

The District Attorney of the county of the court you petition may oppose a petition to set aside a conviction; however, this is not the same as having a court deny your petition. **In most cases, the Governor will not exercise his clemency powers upon your application if you qualify under ORS 137.225 and do not complete the entire petition process as outlined in that statute.** If you have had a petition to set aside a conviction denied under ORS 137.225, you should include a copy of the judge's order with your application.

HOW TO APPLY FOR CLEMENCY:

No particular form is required for your application, but you may use the form headed "CLEMENCY APPLICATION" which is attached to these information sheets. Be sure you sign the application. Also sign the bottom of each extra page.

When you have completed and signed your application, attach it to the form "CLEMENCY AFFIDAVIT". You must take both documents before a Notary Public and sign the affidavit in the Notary's presence.

Before you can apply for clemency Oregon law requires that you must first mail a copy of your application to the following:

- (1) Director of the Department of Corrections;
- (2) State Board of Parole;
- (3) The District Attorney for the county in which you were convicted; and
- (4) If you are confined in a correctional facility, the District Attorney for the county in which you are confined.

You are advised (but not required) to mail these copies by certified mail, return receipt requested. After mailing these copies, then mail your affidavit and application to the Governor.

Do not expect a prompt response to your application. Before making a decision, the Governor will gather additional information on your case. The process ordinarily takes up to six months.

WHAT INFORMATION SHOULD YOUR APPLICATION CONTAIN?

Indicate which type of clemency you are applying for (pardon, commutation, etc.). Then provide the following information.

- (1) State your full name.
- (2) If you are now, or you were ever, an inmate at any state correctional facility, provide your identifying number and state the institutions and dates of your incarceration.
- (3) State your address.
- (4) State your date of birth.
- (5) Provide your social security number.
- (6) State whether you are a U.S. citizen. If you are naturalized, give details.
- (7)
 - a. State the crime(s) you were convicted of.
 - b. State the date the crime(s) were committed.
 - c. State the county in which you were convicted.
 - d. State the date of your conviction.
 - e. State the court case number(s).
 - f. Did you file an appeal? If so, please give details as to when it was filed and what the outcome was.
 - g. Describe any other post-conviction legal proceedings.
 - h. Briefly and accurately explain the events surrounding your offense. If your version differs from the official version of events, you must give the official version before explaining the way in which your view differs. Do not go into the question of your guilt or innocence, but explain any mitigating circumstances.
- (8) State whether you have applied to have your conviction set aside under ORS 137.225 and the outcome. If you have not applied, explain why not.

- (9) Describe your family situation and responsibilities, indicating whether you are single, married, or divorced, and whether you have dependent children or other people for whom you are financially responsible.
- (10) Describe your employment before and after conviction.
 - a. Give the name and addresses of past employers. Describe what kind of work you did and tell why you left.
 - b. If you are presently employed describe where and for whom you are working now.
 - c. Describe your plans for future employment.
- (11) Tell about your involvement with public service or community activities. List any special accomplishments.
- (12) Describe your past criminal record, if any.
- (13) List any debts you owe. Tell how you plan to pay them.
- (14) List three or four character references, including names and addresses and each reference's relationship with you (for example, employer, neighbor, etc.) Do not list relatives.

If possible, these individuals should be aware of the crime. Whether they know about the crime or not, they must be familiar with your present circumstances and activities.

- (15) Explain the reason(s) for your application and why you believe the Governor should use his power to grant you clemency.

EXECUTIVE CLEMENCY APPLICATION

_____, 20____
(Date)

Honorable Theodore R. Kulongoski
Governor of Oregon
900 Court Street, NE
Salem, OR 97301-4047

Dear Governor Kulongoski:

Pursuant to ORS 144.650, I hereby apply for a:

- _____ PARDON
- _____ COMMUTATION
- _____ REPRIEVE
- _____ REMISSION OF FINES

I have served copies of my application on the Director of the Corrections Department, the State Board of Parole, the District Attorney for the county in which I was sentenced, and (if I am confined in a correctional facility) the District Attorney for the county in which I am confined.

(1) Full Name: _____

(2) Institutional history and identifying number, if now or formerly an inmate at any state correctional facility. Please provide the names of the institutions and the dates of your incarceration.

(3) Current Address: _____

(4) Date of Birth: _____

- (5) Social Security Number: _____
- (6) Are you a U.S. citizen? _____ Yes _____ No. Are you naturalized? If yes, give details.
- (7) a. State the crime(s) you were convicted of.
- b. State the date the crime(s) was/were committed.
- c. State the county/counties in which you were convicted.
- d. State the date(s) of your conviction(s).
- e. State the court case number(s).
- f. Did you file an appeal? If so, please give details as to when it was filed and what the outcome was.
- g. Describe any other post-conviction legal proceedings.
- h. Briefly and accurately explain the events surrounding your offense. If your version differs from the official version of events, you must give the official version before explaining the way in which your view differs. Do not go into the question of your guilt or innocence, but explain any mitigating circumstances.

- (8) Have you applied to have your conviction set aside under ORS 137.225?
- Yes, my petition was denied. A copy of the denial order is enclosed.
 - No. Reason _____
 - Other. Explain: _____
- (9) Describe your family situation and responsibilities, indicating whether you are single, married, or divorced, and whether you have dependent children or other people for whom you are financially responsible.
- (10) Describe your employment before and after conviction.
- a. Give the name and addresses of past employers. Describe what kind of work you did and tell why you left.

 - b. If you are presently employed describe where and for whom you are working now.

 - c. Describe your plans for future employment.
- (11) Tell about your involvement with any public service or community

activities. List any special accomplishments.

(12) Describe your past criminal record, if any.

(13) List any debts you owe and how you plan to pay them.

(14) Character References. Do not list relatives. If possible, these individuals should be aware of your crime. Whether they know about the crime or not, they must be familiar with your present circumstances and activities. Attach additional pages if necessary. (You may submit letters of recommendation from these references, or from other individuals, if you would like to; however, you are not required to do so.)

Name, address, relationship

(15) The reason(s) for my application are as follows: (Explain why you believe the Governor should use his power to grant you clemency.)

Use extra sheets as necessary. Sign your name at the bottom of this and **each additional page.**

Signature

Date: _____

CLEMENCY AFFIDAVIT

_____ Pardon (Choose One)
_____ Commutation
_____ Reprieve
_____ Remission of Fines

STATE OF _____)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn, depose and say as
(Print Full Name)
follows:

Pursuant to ORS 144.650, I certify that I have served copies of my clemency application on the:

- (1) Director of the Department of Corrections;
- (2) State Board of Parole;
- (3) District Attorney for the county in which I was convicted; and
- (4) If I am incarcerated, the District Attorney for the county in which I am confined.

I solemnly swear that the statements made in this affidavit and in the application signed by me and attached to this affidavit, are true and correct to the best of my knowledge and belief, and that I will be a law-abiding person in the future and will support and defend the Constitution of the United States and the State of Oregon and the law thereof, so help me God.

(Signature of Applicant)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__.

Notary Public for _____
My Commission Expires: _____