



INTERNAL MANAGEMENT POLICY & PROCEDURE

Applicability: Adult Operation Only JUVENILE Operations Only DEPARTMENT-WIDE Only

IMPP #: 23-101A

PAGE #: 1 of 5

PRISONER REVIEW BOARD: Applying for Clemency Consideration and Payment of Publication Notice

Original Date Issued: 04-29-15 Replaces IMPP Issued: 04-29-15 **CURRENT EFFECTIVE DATE: 05-13-22**

Approved By: , Secretary

Next Scheduled Review: 03/2025

POLICY

Any current and previous resident may file an application for executive clemency, commonly referred to as a pardon. The Department is to pay the costs of publication for clemency applications made by residents lacking the financial resources to pay for them in accordance with K.S.A. 22-3701.

DEFINITIONS

Executive Clemency: A form of power granted to the governor to provide mercy, relief, restoration of rights, or justice to a person convicted of a crime.

Resident: A person who is in the legal custody of the Secretary of Corrections housed in a correctional facility.

Sentence Commutation: Reduces, but does not eliminate, a sentence imposed by the sentencing court.

PROCEDURES

I. Initiating the Executive Clemency Application Process

- A. Staff assistance and all necessary forms are to be provided to residents interested in filing for executive clemency.
- B. Each Warden is to ensure that a supply of current executive clemency application forms and other related forms are available to all residents through the designated Clemency Clerk or Unit Team.
- C. All clemency actions are to be initiated using the Prisoner Review Board Application for Clemency (Attachment A).
 1. The Application for Clemency may be prepared by the resident, or at the request of the resident, by the designated facility Clemency Clerk or Unit Team. The application for clemency is to be distributed as follows:
 - a. The original to the Prisoner Review Board; and,
 - b. A copy to the resident.
- D. Clemency applications and other related forms are not to be forwarded to the Prisoner Review Board

individually but are to be held by the resident and/or facility, as appropriate, until all related forms required by this IMPP have been prepared, and such forms can be forwarded to the Prisoner Review Board as complete package. Exceptions to this may include the following:

1. Receipt of Attachment B from county officials; and
 - a. County officials may forward their recommendation on Attachment B directly to the Prisoner Review Board.
 2. Receipt of Attachment C (Affidavit) from the publishing newspaper.
- E. Pursuant to K.S.A. 22-3701, a Notice of Executive Clemency Application Sentencing Form (Attachment B) is to be mailed to four (4) officials for each county in which the resident was sentenced.
1. *Originals* of the Notice of Clemency Application Sentencing Form are to be prepared by the designated Clemency Clerk or Unit Team and forwarded as follows:
 - a. Judge of the District Court;
 - (1) Care must be taken to ensure that the mailing is addressed, by name and court division number, to each individual sentencing judge in the case.
 - (2) If the sentencing judge is no longer serving on the bench, the mailing must be addressed to the judge in the same division where the original sentencing took place.
 - b. County/District Attorney;
 - c. Chief of Police;
 - (1) Care must be taken to ensure the attachment is mailed to the city/town in which the offense(s) was/were committed.
 - d. County Sheriff;
 - e. The Prisoner Review Board; ~~and~~
 - f. A copy to the resident; and
 - g. A copy to resident's imaged documents.

II. Publication

- A. Prior to processing the request for publication form, designated facility personnel must notify the Office of Victim Services seven (7) business days prior to contacting the official county newspaper(s). Designated facility staff shall contact the Office of Victim Services with clemency information at kdoc_victim_notification@ks.gov.
 1. Victim notification shall be completed by the Office of Victim Services in accordance with IMPP 21-101A.
- B. Designated facility personnel are to prepare a Request for Publication form (Attachment C) and distribute copies as follows:
 1. The original to the official county newspaper of each county of conviction considered in the clemency application;
 2. A copy of each notice to the Prisoner Review Board;

3. A copy of each notice to the resident's facility master file; and
4. A copy to resident's imaged documents.

III. Payment of Clemency Publication Notices

A. Application for Waiver of Publication Costs

1. A resident who makes application for clemency is to be assessed the costs of the publication notice unless he or she makes application for waiver of these costs by completing a poverty affidavit (Attachment D).
 - a. Each resident who makes an application for clemency is to be informed that he or she is to be charged for these costs unless this affidavit is submitted.

B. Review of Application for Waiver of Publication Costs

1. Upon submission of a poverty affidavit by a resident, the representations made by the resident are to be verified by the facility business manager or designee for content and accuracy.
 - a. If the review discloses that the resident either has sufficient funds or will have sufficient incentive pay by the end of the month to pay the publication costs, the poverty affidavit is not to be accepted and the resident is to be informed that the State will not pay the publication costs.
 - b. The resident is to be given the option of either paying the publication costs or withdrawing the clemency application.
2. If the resident elects to proceed with the clemency application after the poverty affidavit has been rejected, the amount of the publication costs is to be withdrawn from the resident's account if sufficient funds are available.
 - a. If sufficient funds will be available by the end of the month through the accrual of incentive pay the clemency application is to be processed and the resident's account flagged. The costs of publication are to then be subtracted from the incentive pay award.
 - b. If the review discloses that the resident neither has sufficient funds nor will have sufficient incentive pay by the end of the month to pay the publication costs, the poverty affidavit is to be accepted and certified by the facility Business Manager or designee, and the resident is to be informed that the State will pay the publication costs.

C. Limits On Applications For Waiver Of Publication Costs

1. The State is not to pay for more than one (1) publication notice for any one (1) resident during any 12 month period.
 - a. Publication costs in excess of one (1) notice per resident per 12-month period are to be the responsibility of the resident filing the application for clemency.

IV. Legal Representation

- #### **A. The Affidavit-Executive Clemency and Parole Matters form (Attachment E) is to be provided to a resident who requests legal representation or to his/her attorney.**
1. If the Affidavit form (Attachment E) is provided to the resident, it is to be his/her responsibility to send the form to his/her attorney.

- (a) The legal representative is to be informed that the Affidavit needs to be completed by him/her and signed before a notary.
2. The Affidavit is to be returned to the resident for inclusion with the original clemency application when it is submitted to the Prisoner Review Board.
 - a. The resident is to keep a copy of the Affidavit and provide a copy to the facility Parole Officer.
 - a. In accordance with K.S.A. 22-3706, the failure to file the Affidavit with the clemency application is to result in the resident's application not being considered by the Prisoner Review Board.

V. Applying for Executive Clemency When no Longer Incarcerated

- A. General differences of procedures in the application process include the following:
 1. The applicant is responsible for completing all necessary forms outlined in this policy. If assistance is needed, the applicant must contact the Clemency Clerk at the Kansas Prisoner Review Board at the phone number listed on the attached forms.
 2. For records concerning conviction(s) that are expunged, the applicant is responsible for obtaining said records from the District Court in county/counties of conviction.
 - a. The Kansas Prisoner Review Board reviews two (2) reports when making a recommendation to the Governor, which include: *Pre-sentence Investigation (PSI)* and *Journal Entry of Judgement (JE)*.
 3. The *original* Application for Executive Clemency (Attachment A) is to be forwarded only to the Prisoner Review Board.
 4. The applicant is responsible for forwarding the original Notice of Clemency Application Sentencing Form (Attachment B) to officials within the county of conviction(s) listed at the bottom of the form.
 5. The following applies to the Request for Publication for Clemency (Attachment C):
 - a. The applicant must contact the newspaper of his/her conviction from the official newspapers list for cost inquiry and payment of publication.
 - b. The applicant must complete the "Notice of Publication" portion of the form and mail the *original* Attachment C with payment to the newspaper in which the notice is to be published.
 - c. The applicant must inform the newspaper to complete the "Affidavit" portion of Attachment C, attach Proof of Publication, and mail completed documents to the Prisoner Review Board.
 6. The applicant is not required to complete the Affidavit (To Proceed as Pauper in Clemency Application) (Attachment D).
 7. The applicant must provide the legal representative with the Affidavit-Executive Clemency and Parole Matters (Attachment E) for recognition of appointment by the Prisoner Review Board and Governor of Kansas.

VI. Prisoner Review Board Responsibility

- A. For all applications received, The Prisoner Review Board must process and review applications and submit a recommendation to the Governor within 120 days of receipt.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS

None.

REFERENCES

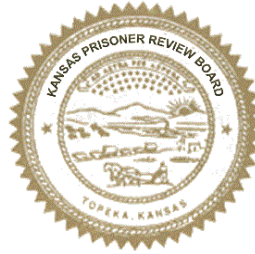
K.S.A. 22-3701, 22-3706
IMPP 21-101A

HISTORY

04-29-15 Original
05-13-22 Revision 1

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Application for Clemency	1 page
B	Notice of Clemency Application	1 page
C	Request for Publication	1 page
D	Affidavit (To proceed as Pauper in Clemency Application)	1 page
E	Affidavit-Executive Clemency and Parole Matters	1 page



PRISONER REVIEW BOARD
JAYHAWK WALK
714 SW JACKSON, SUITE 300
TOPEKA, KANSAS 66603-3722
(785) 296-4524

APPLICATION FOR EXECUTIVE CLEMENCY

Under K.S.A. 22-3701, the Prisoner Review Board is responsible for processing and reviewing applications for Executive Clemency. The law requires that the sentencing court and prosecuting attorney be notified of the application, and that a notice be published in the official county paper. The Prisoner Review Board then reviews pertinent records, reports, and other available information. If a personal interview with the applicant is needed, the applicant will be notified. Following review, the **Prisoner Review Board** submits its report to the **Governor**, who makes the final decision in all clemency matters. Applicants must supply the information requested below.

Name & KDOC Number: _____

Did you plead guilty? _____ Did you appeal? _____ If so, state decision: _____

Did you file motions under K.S.A. 60-1507, or habeas corpus actions in either state or federal court concerning your conviction? _____ If so, state decision : _____

Reasons for seeking Clemency (use extra page if needed). Note: If you prefer not to disclose your reasons to facility officials, please put information in a sealed envelope, labeled Prisoner Review Board, and give this along with your application, to the facility **Clemency Clerk**.

TO THE GOVERNOR OF THE STATE OF KANSAS:

I hereby make application for Executive Clemency for the reasons above, and affirm that the information contained in my application is true and correct to the best of my knowledge and belief.

/ / _____
DATE Applicant's Signature & KDOC Number

KANSAS DEPARTMENT OF CORRECTIONS
PRISONER REVIEW BOARD
JAYHAWK WALK
714 SW JACKSON, SUITE 300
TOPEKA, KANSAS 66603-3722
(785) 296-4524

DATE: / /

REQUEST FOR PUBLICATION FOR CLEMENCY

A check for \$_____ is enclosed to pay for the cost of publishing the notice shown below. The notice should be published one time only. Immediately after publication, please return to the address below the affidavit of publication properly executed and a copy of the printed notice. This is necessary to meet statutory requirements, and the petitioner's application for Executive Clemency cannot be completed until proof of publication is received.

Return to: Kansas Department of Corrections
Prisoner Review Board
Jayhawk Walk
714 SW Jackson, Suite 300
Topeka, KS 66603-3722

NOTICE OF PUBLICATION

_____ sentenced _____
for _____ in _____ County, Kansas, has applied for executive clemency. Persons wishing to comment should send information in writing to the above address within fifteen (15) days after the date of publication.

Attach Newspaper Clipping Here or Electronic Notice to this Form:

Affidavit

This shall certify that the above notice, a printed copy of which is attached, was published on _____ in the _____, which is the official county newspaper for _____ County, Kansas.

Printer's fees: \$_____.

Signature of affiant: _____ Title: _____

Name of paper: _____ Location: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day of _____, 20_____.

Notary Public

My commission expires / /

AFFIDAVIT

(To proceed as Pauper in Clemency Application)

STATE OF KANSAS)
) ss:
COUNTY OF _____)

_____, being duly sworn, states:
(Name and register number)

1. That I am presently incarcerated at _____, for a term of _____ years, and desire to apply for Executive Clemency;
2. That I have _____ dollars in my inmate trust account and will not receive incentive pay in a sufficient amount by the end of the month to pay the cost of publication of notice of this application.
3. That I do hereby request the cost of said publication be paid by the State of Kansas in accordance with law, and that I be permitted to proceed as a pauper.

Signature of Resident

SUBSCRIBED AND SWORN before me this _____ day of _____, 20_____

(S E A L) _____
Notary Public

My Commission Expires: _____

Certification by Facility Official

I hereby certify that, as of this date, the above-named resident has the amount of \$_____ in his/her current resident account, which amount may be drawn against for his personal expenditures. I further certify that this resident will not receive incentive pay by the end of this month in an amount sufficient to pay more than _____ dollars of publication costs (insert amount of incentive pay to be received by end of the month). I also certify that the State of Kansas has not paid for the cost of clemency publication for this resident during the past twelve months.

Date

Facility Business Manager

BY: _____
(Assistant Chief Clerk)

**PRISONER REVIEW BOARD
TOPEKA, KANSAS**

K.S.A. 22-3706 provides as follows: "Person acting as agent or representative of individual seeking release; contingent fee prohibited; statement and affidavit. No person acting as agent or representative for an individual before the board for pardon, commutation of sentence, parole or revocation of parole, conditional release or post-release supervision shall contract for or receive a fee contingent upon a certain decision by the board. Such agent or representative shall submit a statement on the applicant's behalf to the prisoner review board in writing and shall submit therewith an affidavit stating such agent's representative's name; place of residence; the name of the applicant being represented or has been represented; the fee, if any, paid to or to be paid to such agent or representative by any person for such services; that such fee is not or was not a contingent fee. If any person representing any applicant for pardon, commutation of sentence, or parole shall fail to file such affidavit the application shall not be considered. Any affidavit filed as provided in this section shall be a public record."

AFFIDAVIT-EXECUTIVE CLEMENCY AND PAROLE MATTERS

State of: _____

County of: _____

The affiant, _____
(Name and Address)

of lawful age, being duly sworn, states that affiant is an attorney at law admitted to practice within the state
of _____

by _____
(Name and Address of Client)

to represent _____
(Name of Resident or Parolee) (Number)

for _____; and that the fee for
affiant's services is \$ _____ to be paid by _____
(Name of Payor)

and that \$ _____ of the fee has already been paid:

Affiant further states that the fee is not or was not contingent upon granting or denial of the aforesaid application.

(Signature of Affiant)

Subscribed and sworn before me this _____ day of _____ 20____

(SEAL)

Notary Public

My appointment expires _____