

State Clemency Resources

Which form(s) of clemency does the state offer?

- Commutation
- Pardon
- Exoneration

Governor Lee's Drug-Free Sentence Clemency Initiative: On December 2, 2021, Governor Lee announced that he would establish an expedited clemency application and review process for approximately 335 people still incarcerated in state prisons for drug-free zone offenses. People must meet certain criteria to apply, and no one is guaranteed clemency.

A grant of clemency from the governor can change a person's parole eligibility date and potentially reduce a sentence. More Info:

famm.org/wp-content/uploads/TN-DFSZ-Clemency-Factsheet-2021.pdf

Decisionmaker

People must submit the application to the Tennessee Board of Probation and Parole. The Board will then send the application on to the Governor with their recommendation.

The final determination of whether a pardon will be granted lies with the Governor after review of the petition and any non-binding recommendation of the Board.

Resources:

tn.gov/bop/agency-services/executive-clemency-unit.html

Constitutional and statutory authority

- **Constitutional Authority:**
Tenn. Const. art. III, § 6
- **Statutory Authority:**
BP-0245, BP-0044, BP-0247
SB 2734 (for Drug-Free School Zone Convictions)
Tenn. Code Ann. § 40-27-101

Eligibility Criteria

- **Pardon:** The Governor will give serious consideration to Pardon requests when:
 - (a) Petitioner has been neither convicted, nor confined under sentence, nor subject to community supervision within five (5) years since the completion of the sentence(s) from which he or she seeks a pardon; and
 - (b) Petitioner has demonstrated exemplary citizenship since the completion of the sentence(s) from which he or she seeks a pardon, which shall mean both specific achievements and incident-free behavior that indicates an extraordinary transformation following the conviction(s) at issue; and
 - (c) Petitioner has demonstrated a compelling reason for a pardon.
- **Commutation:** The Governor will give serious consideration to commutation requests where the petitioner has demonstrated that:
 - (a) The petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen upon release and:
 - (i) Petitioner is suffering from a life-threatening illness or has a severe chronic disability, said illness or disability is supported by appropriate medical documentation, and the relief requested would mitigate said illness or disability; or
 - (ii) Petitioner's parent, spouse, or child has a life-threatening illness, said illness is supported by appropriate medical documentation, and the petitioner is the only person able to assist in the care of such person; or
 - (b) The petitioner has been rehabilitated to an extraordinary degree, relative to the nature of the offense(s) committed, will be a law-abiding citizen and positive contributor to society upon release, and has, to the extent age and health permit, a desire and an ability to maintain gainful employment.

- **Exoneration:** The Governor will give serious consideration to exoneration requests where the petitioner has demonstrated that:
 - (a) After consideration of the facts, circumstances, and any newly discovered evidence in a particular case, the Governor finds the petitioner did not commit the crime for which the petitioner was convicted; and
 - (b) The petitioner has exhausted all possible state judicial remedies.

Application Process

A hearing is held by the Board in every case where the applicant is deemed worthy of favorable consideration.

After a determination of eligibility has been made, the Board collects background information about the crime and the applicant's adjustment since release. A hearing is not held in every case (2/3 of applications filed are denied without a hearing).

If a hearing is held, the Board notifies various interested parties, including the prosecutor, judge and police. The legislative oversight committees also receive notification of the hearing.

After the Board makes its recommendation to the governor, it forwards to the legislative oversight committees the names of those it is recommending and those it is not, along with reasons in each case.