



ADMINISTRATIVE RULES OF MONTANA



20.25.901A EXECUTIVE CLEMENCY CRITERIA

- (1) Pardon is a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction. An individual may not apply for a pardon unless the offense for which he/she seeks a pardon has been commuted or discharged. A hearing panel may recommend a pardon for an individual who:
 - (a) can satisfactorily prove innocence of a crime for which the individual has served time;
 - (b) has demonstrated an extended period of exemplary performance;
 - (c) submits newly discovered evidence showing complete justification or nonguilt on the part of the individual; or
 - (d) can satisfactorily prove extraordinary mitigating or extenuating circumstances exist.
- (2) Commutation involves the mitigation of a criminal punishment through the substitution of a lesser sentence for a greater one. A hearing panel may recommend commutation for an individual who:
 - (a) can prove by overwhelming evidence the individual is innocent of a crime for which the individual was convicted;
 - (b) has demonstrated an extended period of exemplary performance;
 - (c) submits evidence discovered subsequent to the conviction that clearly shows the individual was completely justified in committing the crime; or
 - (d) can satisfactorily prove that further incarceration would be grossly unfair, that a death penalty should be avoided, or extraordinary mitigating or extenuating circumstances exist.
- (3) A hearing panel may also recommend to the governor that a respite or a remission of fines or forfeitures be granted.
- (4) When considering an application for executive clemency the hearing panel shall consider the nature of the crime, the comments of the sentencing judge, the prosecuting attorney, the community, and the victims and victims' family regarding clemency for the applicant, and whether release would pose a threat to the public safety.

Authorizing statute(s): 46-23-218, MCA

Implementing statute(s): 46-23-301, MCA

History: NEW, 1993 MAR p. 297, Eff. 2/26/93; AMD, 1999 MAR p. 290, Eff. 2/12/99; AMD, 2010 MAR p. 2816, Eff. 12/10/10; AMD, 2012 MAR p. 1619, Eff. 8/10/12.