

## CHAPTER 638

### BOARD OF PARDONS

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#### 638.01 BOARD OF PARDONS; HOW CONSTITUTED; POWERS.

The board of pardons shall consist of the governor, the chief justice of the supreme court, and the attorney general. The board may grant pardons and reprieves and commute the sentence of any person convicted of any offense against the laws of the state, in the manner and under the conditions and rules hereinafter prescribed, but not otherwise.

*History: (10779) RL s 5424; 1985 c 248 s 70*

#### 638.02 PARDONS.

Subdivision 1. The board of pardons may grant an absolute or a conditional pardon, but every conditional pardon shall state the terms and conditions on which it was granted. Every pardon or commutation of sentence shall be in writing and shall have no force or effect unless granted by a unanimous vote of the board duly convened.

Subd. 2. Any person, convicted of crime in any court of this state, who has served the sentence imposed by the court and has been discharged of the sentence either by order of court or by operation of law, may petition the board of pardons for the granting of a pardon extraordinary. If the board of pardons shall determine that such person has been convicted of no criminal acts other than the act upon which such conviction was founded and is of good character and reputation, the board may, in its discretion, grant to such person a pardon extraordinary. Such pardon extraordinary, when granted, shall have the effect of restoring such person to all civil rights, and shall have the effect of setting aside the conviction and nullifying the same and of purging such person thereof and such person shall never thereafter be required to disclose the conviction at any time or place other than in a judicial proceeding thereafter instituted.

The application for such pardon extraordinary and the proceedings thereunder and notice thereof shall be governed by the statutes and the rules of the board in respect to other proceedings before the board and contain such further information as the board may require.

Unless the board of pardons expressly provides otherwise in writing by unanimous vote, if the person was convicted of a crime of violence, as defined in section 624.712, subdivision 5, the pardon extraordinary must expressly provide that the pardon does not entitle the person to ship, transport, possess, or receive a firearm until ten years have elapsed since the sentence was discharged and during that time the person was not convicted of any other crime of violence.

Subd. 3. Upon granting a pardon extraordinary the board of pardons shall file a copy thereof with the district court of the county in which the conviction occurred, whereupon the court shall order the conviction set aside and all records pertinent to the conviction sealed. These records shall only be reopened in the case of a criminal judicial proceeding thereafter instituted.

Subd. 4. Any person granted a pardon extraordinary by the board of pardons prior to April 12, 1974 may apply to the district court of the county in which the conviction occurred for an order setting aside the conviction and sealing all such records as set forth in subdivision 3.

Subd. 5. The term "records" shall include but is not limited to all matters, files,

documents and papers incident to the arrest, indictment, information, trial, appeal, dismissal and discharge, which relate to the conviction for which the pardon extraordinary has been granted.

**History:** (10780) *RL s 5425; 1941 c 377 s 1; 1955 c 448 s 1; 1963 c 819 s 1; 1974 c 582 s 1; 1987 c 276 s 4*

### **638.03 WARRANT; RETURN.**

The board of pardons may issue its warrant, under its seal, to any proper officers to carry into effect any pardon, commutation, or reprieve. As soon as may be after the execution of the warrant, the officer to whom it is directed shall make return thereof, under hand, with the doings thereon, to the governor. Such officer shall also file with the court administrator in which the offender was convicted an attested copy of the warrant and return, a brief abstract of which such court administrator shall subjoin to the record of the conviction.

**History:** (10781) *RL s 5426; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

### **638.04 MEETINGS.**

The board of pardons shall hold regular meetings on the second Monday in January, April, July, and October, of each year, and such other meetings as it shall deem expedient, and all shall be held in the executive chamber in the state capitol, or at such other place as may be ordered by the board.

**History:** (10782) *RL s 5427*

### **638.05 APPLICATION FOR PARDON.**

Every application for a pardon or commutation of sentence shall be in writing, addressed to the board of pardons, signed by the convict or some one in the convict's behalf, shall state concisely the grounds upon which the pardon or commutation is sought, and in addition shall contain the following facts:

- (1) The name under which the convict was indicted, and every alias by which known;
- (2) The date and terms of sentence, and the names of the offense for which it was imposed;
- (3) The name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;
- (4) A succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the same is substantially correct; if such statement and endorsement are not furnished, the reason thereof shall be stated;
- (5) The age, birthplace, parentage, and occupation and residence of the convict during five years immediately preceding conviction;
- (6) A statement of other arrests, indictments, and convictions, if any, of the convict.

**History:** (10783) *RL s 5428; 1986 c 444*

### **638.06 ACTION ON APPLICATION.**

Every such application shall be filed with the clerk of the board of pardons. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed thereon. The clerk shall, immediately on receipt of any application, mail notice thereof, and of the time and place of hearing thereon, to the judge of the court wherein the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office; provided, pardons or commutations of sentence of persons committed to a county jail or workhouse may be granted by the board without notice.

**History:** (10784) *RL s 5429; 1986 c 444*

**638.07 RECORDS; SECRETARY.**

The board of pardons shall keep a record of every petition received, and of every pardon, reprieve, or commutation of sentence granted or refused, and the reasons assigned therefor, and shall have a seal, with which every pardon, reprieve, or commutation of sentence shall be attested. It may adopt such additional necessary and proper rules as are not inconsistent herewith. The commissioner of corrections or a designee shall be the secretary of the board. The commissioner shall have charge of and keep its records and perform such other duties as the board may from time to time direct. The commissioner is hereby authorized and empowered to serve subpoenas and other writs or processes necessary to return parole violators to prison, and to bring before the board witnesses to be heard in matters pending before it. The records and all the files shall be kept and preserved by the secretary, and shall be open to public inspection at all reasonable times.

**History:** (10785) *RL s 5430; 1921 c 427 s 1; 1959 c 263 s 13; 1985 c 248 s 70; 1986 c 444*

**638.08 ISSUANCE OF PROCESS; WITNESSES; STANDING APPROPRIATION.**

The board of pardons may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matter pending, and may take such reasonable steps in the matter as it may deem necessary to a proper determination thereof. When any person is summoned before the board by its authority, the person may be allowed such compensation for travel and attendance as it may deem reasonable.

**History:** (10786) *RL s 5431; 1981 c 356 s 369*