

South Dakota Board Of Pardons And Paroles
Executive Clemency Application

Definition of Clemency:

SDCL Chapter 24-14 Executive Clemency

SDAR Chapter 17:60:05 - Executive Clemency

SDCL 24-14-2 Forms of Clemency. The term “clemency” means either a pardon, commutation, reprieve, or remission of a fine or forfeiture. (This application is for all forms of clemency except commutation.)

Application Instructions for Executive Clemency:

All incomplete applications will be returned to the applicant without processing. All fields must be completed or marked as not applicable (N/A).

Requirements:

The application must clearly define each conviction that you are applying for. You must have paid all court costs, fines and restitution before your application will be considered for a Pardon, Exceptional Pardon, Reprieve, or Remission of Forfeiture. (Does not apply for a Remission of Fine - see below). Receipts verifying your payment of costs, fines and restitution ordered by the court must accompany your application. The time in which your application will be processed and considered is directly related to your efforts to provide this information. Proof of payment may be obtained from the Clerk of Courts in the county in which it was paid.

Requirements for Reprieve or Remission of Fine or Forfeiture:

You must complete this application and provide complete documentation detailing why or how this sentence that includes fine or forfeiture is an overwhelming burden, or is excessive or constitutes a miscarriage of justice.

South Dakota Statutes governing Executive Clemency are found under Chapter 24-14
South Dakota Administrative Rules governing Executive Clemency are found under
Chapter 17:60:05

The South Dakota Board of Pardons and Paroles hears Executive Clemency applications and then makes a recommendation to the Governor. The Board does not grant Executive Clemency.

Notification of Hearing Dates and Times: Two Stage Hearing

Initial Hearing: Hearing Panel

A hearing date will be set by the Parole Board Office for an initial hearing before a Hearing Panel after a completed application has been received. The applicant will be notified of the time and location for the initial hearing. The Hearing Panel will render a decision to deny or recommend a Final Hearing before the Full Board.

Final Hearing: Full Board – Recommend or Not Recommend to the Governor

The applicant, State’s Attorney, State’s Attorney General, Sentencing Judge, and Sheriff/Law Enforcement will be notified of the time and date of the Final Hearing. The Full Board will either Recommend or Not Recommend to the Governor for Executive Clemency.

Board Dates are published on the Parole Board Office website
(<http://www.state.sd.us/corrections/parole.htm>).

Attached Form SDPA-2: (SDCL-24-14-4)

SDCL 24-14-4 requires that applicants publish in official newspapers designated by the county where the offense was committed the name of the person on whose behalf the application is being made, the public offense for which the person was convicted, the time of the person's conviction, and the term of imprisonment. This must be published once a week for three consecutive weeks. The last publication date shall be at a minimum of twenty days before the hearing.

SDAR 17:60:05:15 - Publication of notice of application. The publication required by SDCL 24-14-4 shall be made in the official newspaper of the city closest to where the offense was committed. The notice shall include the applicant's current name and any additional name used when convicted.

SDAR 17:60:05:16 - Applicant name change. An application for executive clemency shall be filed under the name the applicant used when convicted. Any name change shall be noted on the application by placing the currently used name in parenthesis following the name used when convicted. The applicant's name when convicted shall be used on all attachments to the application, including the affidavit of publication and notice to the state's attorney.

To do this, complete the attached form (SDPA-2) and send it to the newspaper in the county where the offense occurred. It is your responsibility to attach the affidavit to the application before mailing it to the Parole Board Office. Applicant is responsible for any expenses incurred during this process.

Exceptional Pardon:

If it has been five years since your release from a Department of Corrections facility, and you have only been convicted of one felony, and your only felony was not punishable by life imprisonment, you are eligible for an Exceptional Pardon. If you apply for an Exceptional Pardon, the requirement for publication in the newspaper (Form SDPA-2, Attached) does not apply.

Notice To State Attorney's Office:

SDPA-3 Notice to State's Attorney is attached. You will need to complete the form and send it to the State's Attorney in the county where you were convicted (one for each application/conviction). When the form is returned from the State's Attorney's office, send the completed application to the Parole Board Office for consideration.

Personal Plea:

You are required to attach a letter of personal plea, stating why you are asking for clemency. The letter should describe what debilitating effects the conviction is causing such as limiting employment and how clemency will benefit you and society. (See SDAR 17:60:05:01)

Processing:

All applications presented to the South Dakota Board of Pardons and Paroles for review and recommendation will receive a written notice of the Board's decision within 10 working days after the final hearing.

Letters Of Recommendation:

You are strongly encouraged to provide letters of recommendation. Letters should be signed and notarized. The following are suggestions, and may be submitted with your application:*

1. Minister (if applicable).
2. Present and/or former employer(s).
3. Other reputable persons in the community who can testify to your moral character and good behavior.
4. Family and friends.

* Daytime and evening phone numbers are required for verification.

If you are unable to obtain letters of recommendation from the above listed individuals due to factors beyond your control (retirement, relocation, deceased, etc.) please include an explanation in your application.

You are encouraged to obtain letters of recommendation and should, if possible, talk to each letter writer personally. Letters of recommendation must reference that the letter writer is aware you are seeking Executive Clemency. All letters are required to have signatures notarized. You may provide each letter writer with a copy of these instructions. After you have fully completed the application and have obtained the letters of recommendation, you may forward all documents to the South Dakota Board of Pardons and Paroles, 1600 N. Drive, P.O. Box 5911, Sioux Falls, SD 57117-5911

SDCL 24-11 – Prior conviction for habitual offender law.

“For the sole purpose of consideration of the sentence of a defendant for subsequent offenses or the determination of whether the defendant is a habitual offender under chapter 22-7 or whether the defendant has prior driving under the influence convictions pursuant to chapter 32-23, the pardoned offense shall be considered a prior conviction.”

SEX OFFENDERS

Special Board Requirements:

In addition to completing the application a hearing officer or panel may request the applicant to complete the following assessments at the initial hearing: (Applicant, you may provide if you wish at the initial hearing.)

Psychosexual Evaluation:

A psychosexual evaluation should include a detailed review of the offender’s history if available. This should include contact with former probation or parole officers, criminal history, a significant other, and treatment provider/therapist. As part of the comprehensive interview the offender’s employment, relationships, financial and residency information should be specifically documents. Psychosexual testing should include multiple personality assessment(s), actuarial (i.e. MnSOST-R, RRASOR or STATIC-99) and sexual interest testing with the ABEL assessment or polythsmograph. A comprehensive and detailed history polygraph should be included as part of the psychosexual report or as a separate document.

Psychosexual Evaluator:

A psychosexual evaluation must be completed by:
Recognized sex offender specialist within the state of residence and licensed in their respective field, PhD or Masters level. The Board requires that the evaluator have a professional membership with ATSA (Association for the Treatment of Sexual Abusers).

Board Evaluation:

The Board may seek professional review of all documents received by a local ATSA psychologist.

Cost of Evaluation:

All costs incurred are the responsibility of the applicant.

Convictions for Drugs or Alcohol

Special Board Requirements:

In addition to the completed application a hearing officer or panel may request the applicant to complete the following assessments at the initial hearing. (Applicant, you may provide if you wish at the initial hearing.)

Chemical Dependency Evaluation:

The chemical dependency evaluation should include a detailed review of the offender's chemical use history. This should include any treatment that was completed within the prison and/or the community and the discharge summary from the treatment facility. As part of the evaluation it should also include any aftercare or 12 Step meetings that they attended and any progress or regress. It should also include any relapses if applicable and the events that lead up to the relapse and what actions were taken if a relapse occurred.

Chemical Dependency Counselor:

A chemical dependency evaluation must be completed by:
Certified Chemical dependency Counselor or Counselor with Trainee Status within the state of residence and be licensed within their state as either a CCDC I/II/III or CDCT under the supervision of a certified counselor.

Board Evaluation:

The Board may seek professional review of all documents received by a local community agency.

Cost of Evaluation:

All costs incurred are the responsibility of the applicant.

Diagnosed Mental Health Issues

Special Board Requirements:

In addition to the completed application a hearing officer or panel may request the applicant to complete the following assessments at the initial hearing. (Applicant, you may provide if you wish at the initial hearing.)

Psychological Evaluation:

A psychological evaluation should include a detailed review of the offender's mental health history; past and current diagnoses, past and current psychotropic medications, past/recent suicide attempts, current mental health status, and a prognosis. The history should include contact with former probation or parole officers, criminal history, a significant other, and treatment provider/therapist information. As part of the comprehensive interview the offender's employment, relationships, financial, and residency information should be included in the report. Psychological testing should include personality assessment (to assess for psychopathology), psychopathy assessment, and other test measures considered appropriate by the testing psychologist.

A comprehensive clinical summary including; current diagnosis and medications, current medical conditions affecting mental health status and current level-of-functioning should be included in the report.

Psychological Evaluator:

A psychological evaluation must be completed by:
Psychologist within the state of residence and licensed in their respective field, Ph.D or Ed.D.

Board Evaluation:

The Board may seek professional review of all documents received by the evaluating psychologist.

Cost of Evaluation:

All cost incurred are the responsibility of the applicant.

Check List for Applicant's Use

Please be sure that all information listed below is sent to the Parole Board Office.

1. ____ Proof of payment of court costs, fines and restitution. (For each conviction.)
2. ____ Completed, signed and dated application.
3. ____ Letters of recommendation: *
 - a. ____ Family
 - b. ____ Friends
 - c. ____ Minister (if applicable)
 - d. ____ Present and/or former employer(s)
 - e. ____ Other reputable persons in the community who can testify to the moral character and good behavior of the applicant. (All letters are required to be notarized.)

* All contact information must include daytime and evening telephone numbers.

4. ____ Department of Corrections Discharge Certificate (Copy, if applicable)

5. ____ Your letter of Personal Plea (See SDAR 17:60:05:01)

6. ____ Certified Copy of Sentence and Judgement. (For each conviction)

7. ____ Affidavit of Publication

8. ____ Proof of Service to State's Attorney: (For each conviction)

9. ____ Attach a Copy of a current photo identification card (Drivers License).

10. ____ Please attach a written statement in your own words describing the crime/incident

11. Please List Other Documents Attached:

Other Documents Attached:

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

Application For Executive Clemency

Please check the appropriate box for which you are applying:

Pardon Exceptional Pardon Reprieve, or Remission of Fine

Name:			
Address:			
Street	City	State	Zip Code
County of Residence:			
Other names you have used:			
Home Phone: ()		Work Phone: ()	
		Cell: ()	
Date of Birth:		Place of Birth:	
		Sex: M <input type="checkbox"/> F <input type="checkbox"/>	
Social Security Number:		U. S Citizen: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Crime or Offense: _____			
Felony: <input type="checkbox"/> Misdemeanor: <input type="checkbox"/>			
Date Crime Committed: (Month/Day/Year)			
Date of Conviction: : (Month/Day/Year)			
County of Conviction:			
Sentence Received: _____			
<input type="checkbox"/> Jail Time: _____ <input type="checkbox"/> Penitentiary Time: _____			
Beginning Date of Probation:		Ending Date of Probation:	
Date of Probation Violation: (if applicable)			
Place and Dates of Time Served:			
Beginning Date of Parole:		Ending Date of Parole:	
Name of Current Probation/Parole Officer:			
Address of Current Probation/Parole Officer:			
Name of Prosecuting Attorney:			
Address of Prosecuting Attorney:			
Name of Presiding Judge:			
Address of Presiding Judge:			
Name of Defense Attorney:			
Address of Defense Attorney:			

Were you ordered by the Court to pay any of the following?			
Ordered:	<input type="checkbox"/>	Court Cost: \$ _____	<input type="checkbox"/>
		Fines: \$ _____	<input type="checkbox"/>
		Restitution: \$ _____	
Paid:	<input type="checkbox"/>	Court Cost: \$ _____	<input type="checkbox"/>
		Fines: \$ _____	<input type="checkbox"/>
		Restitution: \$ _____	
Balance:	<input type="checkbox"/>	Court Cost: \$ _____	<input type="checkbox"/>
		Fines: \$ _____	<input type="checkbox"/>
		Restitution: \$ _____	
Were you ordered to pay Attorney's Fees:		<input type="checkbox"/>	Yes <input type="checkbox"/>
		<input type="checkbox"/>	No
Amount: \$ _____		Paid: \$ _____	
Address at time of Charge and Conviction:			

Street	City	State	Zip Code

Provide the following information about your employment since your conviction. List your present job first. Attach additional sheets when necessary. (Must be a complete history, explain all gaps in employment.)	
Current Employer: _____	
Address: _____	
Telephone Number: _____	
Immediate Supervisor:	
What is your trade or job description?	
Dates of Employment: From:	To:
1. (Previous Employment)	
Employer: _____	
Address: _____	
Telephone Number: _____	
Immediate Supervisor:	
What was your trade or job description?	
Dates of Employment: From:	To:
Reason for Job Change:	

2.
Employer: _____
Address: _____
Telephone Number: _____
Immediate Supervisor:
What was your trade or job description?
Dates of Employment: From: _____ To: _____
Reason for Job Change:
3.
Employer: _____
Address: _____
Telephone Number: _____
Immediate Supervisor:
What was your trade or job description?
Dates of Employment: From: _____ To: _____
Reason for Job Change:
4.
Employer: _____
Address: _____
Telephone Number: _____
Immediate Supervisor:
What was your trade or job description:
Dates of Employment: From: _____ To: _____
Reason for Job Change:

Have you been arrested, charged or convicted at any other time? (You must answer this question even if you received a suspended imposition or suspended execution of sentence.)

If your answer to any part of the above question is **YES**, provide the following information for each offense. (Use attached sheets if necessary.)

1. Were you arrested charged convicted? Offense: _____
2. Date of Offense: _____
3. Sentence Received: _____
4. Terms of Sentence: _____
5. County and State where convicted or charged: _____
6. Place and dates of incarceration and/or dates of probation or parole: _____

7. Name, address and telephone number of:

- a. Prosecuting Attorney: _____
- b. Counselor at Institution: _____
- c. Parole or Probation Officer: _____

8. Amount of restitution, court cost and attorney's fees ordered and amount paid:

- a. Restitution Ordered: \$ _____ Amount Paid: \$ _____
- b. Court Cost Ordered: \$ _____ Amount Paid: \$ _____
- c. Attorney's Fees Ordered: \$ _____ Amount Paid: \$ _____
- d. Fines Ordered: \$ _____ Amount Paid: \$ _____

Have you ever been addicted to or abused alcohol or drugs of any type? Yes No

If you checked **YES** above, complete the following:

- a. Kind of addiction or abuse: _____
- b. Dates of addiction or abuse: _____
- c. Did you complete a treatment program? Yes No
- d. Description of type of help received and dates: _____

- e. Please attach a copy of program completion certificate(s).

Have you received services within the community for Mental Health? Yes No

If you checked **YES** above, complete the following:

- a. Type of services: _____
- b. Dates of services: _____
- c. Did you complete a program? Yes No
- d. Description of services received: _____

- e. Please attach a copy of program completion certificate(s)

FIREARMS

Are you requesting the restoration of your right to own and/or possess firearms? Yes No

WARNING: Federal law governs ownership or possession of a firearm by persons convicted of a felony under state law. In most cases, it is a federal crime for persons convicted of a felony under state law to own or possess a firearm. Before purchasing or possessing a firearms, you should seek the advice of an attorney or contact the Bureau of Alcohol, Tobacco, Firearms & Explosives, 230 South Phillips Avenue, Suite 402, Sioux Falls, SD 57104, (605) 330-4368, to determine whether you may lawfully own or possess a firearm.

Please provide a brief statement as to why you are requesting your firearms rights returned:

Marital status at present: include spouse's name, address and telephone number if other than your own:

List names and present addresses of any previous spouses and dates of divorce or separation:

Names and ages of dependents presently living with you:

Names, ages and addresses of dependents not living with you:

List any alimony or child support payments you were ordered to make:

Amount of alimony or child support you are presently paying: _____

Are delinquent in payments: Child Support _____ Alimony: _____

List the amounts delinquent above:

Are you or any of your dependents now receiving any public assistance (welfare benefits, Social Security, disability, etc.)?
If so, give reason: _____

Amount of public assistance being received per month: \$ _____

What was your marital status at the time of your conviction?

Have you made previous application for Executive Clemency? Yes No

If answer to the above is **YES**, when and in what state?

Provide a brief description of your lifestyle by listing organizations you belong to, hobbies and special interests:

List all honors, awards or achievements you have accomplished since your conviction:

Please attach copies of certificates:

List all community service or volunteer service projects you have participated in since your conviction:

Provide names, addresses and telephone numbers of all contact persons affiliated with the above listed volunteer service or community services projects:

Name: _____

Address: _____

Telephone Number: Day: _____ Evening: _____

Relationship to you: _____

Name: _____

Address: _____

Telephone Number: Day: _____ Evening: _____

Relationship to you: _____

Name: _____
Address: _____
Telephone Number: Day: _____ Evening: _____
Relationship to you: _____
Provide the names, addresses and telephone numbers of three persons (not relatives or convicted felons) who know you well and would serve as references:
Name: _____
Address: _____
Telephone Number: Day: _____ Evening: _____ Cell: _____
Relationship to you: _____
Name: _____
Address: _____
Telephone Number: Day: _____ Evening: _____ Cell: _____
Relationship to you: _____
Name: _____
Address: _____
Telephone Number: Day: _____ Evening: _____ Cell: _____
Relationship to you: _____
Did you file federal income tax returns for the past three years?
Last year: <input type="checkbox"/> Yes <input type="checkbox"/> No
If no, please explain why not: _____ _____
Next previous year: <input type="checkbox"/> Yes <input type="checkbox"/> No
If no, please explain why not: _____ _____

Next previous year: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If no, please explain why not:	
<hr/> <hr/>	
Applicants Signature:	Date:

Executive Clemency Application Release Of Information

I, _____, the undersigned applicant for Executive Clemency to the South Dakota Board of Pardons and Paroles, do hereby authorize any and all persons, firms or corporations; to release any and all information or documents they may now have or hereinafter receive concerning me.

I authorize the release of said information to the South Dakota Board of Pardons and Paroles, their designee or agent. In granting this release, it is my understanding that the information or documents obtained will be used for the sole consideration of my application for Executive Clemency.

I further forever hold blameless those persons, firms, corporations and the South Dakota Board of Pardons and Paroles, who by virtue of this consent may release information as requested.

A photocopy of this release form will be valid as an original, even though said photocopy does not contain an original writing of my signature.

I have read fully and understand the contents of this application and the authorization for release of personal information.

Full Name:
(Print)

Other names used:
(Print)

Date of Birth:

Social Security Number:

Signature

Date

This Document must be signed and dated for an application to be processed.

**South Dakota
Board of Pardons and Paroles**

Dear Publisher:

In order for me to complete the application for Executive Clemency a notarized affidavit of publication must be sent to the Board of Pardons and Paroles after publication. Please send a notarized affidavit of publication to my address listed below. Thank you for your assistance.

Please publish the following Notice of Application once a week for three consecutive weeks.

Sincerely,

Applicant: _____
Applicant's address: _____

Applicant's Phone
Number: _____

Notice Of Application For Executive Clemency

_____ who was sentenced from
_____ County,

the _____ Day of _____,

to _____

Fine, Forfeiture, Jail or Prison

For the crime of _____

Has applied to the South Dakota Board of Pardons and Paroles for:

Pardon

Reprieve or Remission of Fine or Forfeiture

Form – SDPA – 2 – Notice of Publication

