

# Expedited Exceptional Pardon Instructions

## Definition of Clemency

- The term “clemency” refers to either a pardon, commutation, reprieve, or remission of a fine or forfeiture [SDCL 24-14-2 Forms of Clemency](#) (This application is for an expedited exceptional pardon).
- Additional information on clemency can be found in [SDCL Chapter 24-14 Executive Clemency](#) and [ARSD Chapter 17:60:05 - Executive Clemency](#).
- The South Dakota Board of Pardons and Paroles hears Executive Clemency applications and makes a recommendation to the Governor. The Board does not have the authority to grant Executive Clemency.
- [SDCL 24-14-11](#)-Any person who has been granted a pardon shall be released from all disabilities consequent on such person's conviction. Upon the granting of a pardon, the Governor shall order that all official records relating to the pardoned person's arrest, indictment or information, trial, finding of guilt and receipt of a pardon shall be sealed. The effect of such order is to restore such person, in the contemplation of the law, to the status the person occupied before arrest, indictment or information. No person as to whom such order has been entered may be held thereafter under any provision of any law to be guilty of perjury or of giving a false statement by reason of such person's failure to recite or acknowledge such arrest, indictment, information or trial in response to any inquiry made of such person for any purpose.
- [SDCL 24-14-11](#)– 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.”

## Expedited Pardon

### Qualifying offenses:

- Class II Misdemeanors and Petty Offenses  $\geq 5$  yrs old (No other offenses within the last five years, excluding traffic offenses).
- Nonviolent Class I Misdemeanors  $\geq 10$  yrs old (No other offenses within the last five years, excluding traffic offenses).
- If you have a felony, violent misdemeanor(s) or are requesting restoration of firearms, you are not eligible for an expedited pardon.

## Documents:

### 1. Application

Please complete all fields or mark as not applicable (N/A).

- Requirements: You must clearly define each conviction you are applying for Executive Clemency on. If you are applying on multiple offenses, you must fill out a separate application for each conviction. You must have paid all court costs, fines and restitution before your application will be considered.

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## **2. Release of Information**

Please complete, sign, and date the Executive Clemency Application Release of Information.

## **3. Certified copy of Sentence and Judgment**

Please attach a certified copy of Sentence and Judgment for each conviction you are requesting pardon on. This can be obtained by contacting the Clerk of Courts in the county of conviction.

## **4. Proof of Payment**

Please provide proof of payment of court costs, fines, and restitution for each conviction you are requesting pardon on. Receipts verifying payment of costs, fines and restitution ordered by the court must accompany the application. Proof of payment may be obtained from the Clerk of Courts in the county in which it was paid.

## **5. Notice to State's Attorney's Office (Form SDPA-3)**

You will need to complete and send a notice to the State's Attorney in the county where you were convicted (one for each application/conviction). When the form is returned to you from the State's Attorney's office, send it along with your completed application to the Parole Board Office.

## **6. Personal Plea**

Please attach a letter of personal plea, stating why you are asking for a pardon. The letter should describe what debilitating effects the conviction is causing, such as limiting employment, and how a pardon will benefit you and society. (See [ARSD 17:60:05:01](#))

## **7. Personal Statement**

Please attach a written statement, in your own words, describing the crime/incident (one for each application/conviction).

## **8. Current Photo Identification card**

Please attach a copy of your current photo identification card (driver's license).

## **Submission of Application**

After you have completed the application and compiled all of the documentation in the check list, forward all documents to:

South Dakota Board of Pardons and Paroles  
P.O. Box 5911  
Sioux Falls, SD 57117-5911

# Expedited Exceptional Pardon Instructions

## Notification of Hearing

After your application has been received and processed, you will receive a written notice of the date and time of your first hearing with the Board. (If any documentation is missing, you will receive a written notice of the documents required before your application can be processed.)

## Hearing Process (no personal appearance is required)

- Initial Hearing: Hearing Panel

A date will be set for an initial hearing before a hearing panel after your completed application is received. You, the State's Attorney, State's Attorney General, Sentencing Judge, and Sheriff/Law Enforcement where you were convicted will be notified of the time and date of the hearing. The hearing panel will review your paper application and either deny your application, recommend your application for a final hearing before the Full Board, or recommend you re-apply through the standard pardon process.

- Final Hearing: Full Board

You will be notified of the time and date of the hearing. The Full Board will decide to deny your application, recommend your application to the Governor for Executive Clemency, or recommend you re-apply through the standard pardon process.

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

## Notice of Board decision

After your application is presented to the South Dakota Board of Pardons and Paroles for review and recommendation, you will receive a written notice of the Board's decision within 10 working days after the final hearing. If you receive a favorable recommendation from the Board of Pardons and Paroles, your application is forwarded from the South Dakota Board of Pardons and Paroles to the Governor for his review. The Governor makes the final decision of whether to grant or deny the request.

## Notice of Governor decision

Once your application has been received, the Governor will review your application and make the decision to grant or deny your application or recommend you re-apply through the standard pardon process. The Governor makes the final decision of whether to grant or deny the request. After the decision is made, the Governor will advise the Board office of the decision and you will receive a phone call advising of the Governor's decision. Written documentation of the decision will also be sent to you.

## Denial of application

[ARSD 17:60:05:10](#) If your application is denied, you may apply again in one year from the date of the denial.