

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1678

By: Representative Beaty Jr.

By: Senator Gilmore

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING APPLICATIONS FOR PARDON, COMMUTATION OF SENTENCE, AND REMISSION OF FINES AND FORFEITURES; TO AUTHORIZE THE GOVERNOR TO DENY AN APPLICATION FOR PARDON, COMMUTATION OF SENTENCE, AND REMISSION OF FINES AND FORFEITURES WITH PREJUDICE; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE THE GOVERNOR TO DENY AN APPLICATION FOR PARDON, COMMUTATION OF SENTENCE, AND REMISSION OF FINES AND FORFEITURES WITH PREJUDICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-93-207 is amended to read as follows:

16-93-207. Applications for pardon, commutation of sentence, and remission of fines and forfeitures.

(a)(1)(A) At least thirty (30) days before granting an application for pardon, commutation of sentence, or remission of fine or forfeiture, the Governor shall file with the Secretary of State a notice of his or her intention to grant the application.

(B) The Governor shall also direct the Division of Correction to send notice of his or her intention to the judge, the prosecuting attorney, and the county sheriff of the county in which the applicant was convicted and, if applicable, to the victim or the victim's next of kin.



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(2) The filing of the notice shall not preclude the Governor from later denying the application, but any pardon, commutation of sentence, or remission of fine or forfeiture granted without filing the notice shall be null and void.

(b) If the Governor does not grant an application for pardon, commutation of sentence, or remission of fine or forfeiture within two hundred forty (240) days of the Governor's receipt of the recommendation of the Parole Board regarding the application, the application shall be deemed denied by the Governor, and any pardon, commutation of sentence, or remission of fine or forfeiture granted after the two-hundred-forty-day period shall be null and void.

(c)(1)~~(A)~~ Except as provided in subdivision (c)(3), ~~and~~ subsection (d), and subsection (e) of this section, if an application for pardon, commutation of sentence, or remission of fine or forfeiture is denied in writing by the Governor, the person filing the application shall not be eligible to file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense for a period of four (4) years from the date of ~~filing the application that was denied~~ denial.

~~(B) Any person who made an application for pardon, commutation of sentence, or remission of fine or forfeiture that was denied on or after July 1, 2004, shall be eligible to file a new application four (4) years after the date of filing the application that was denied.~~

(2) If an application for pardon, commutation of sentence, or remission of fine or forfeiture is denied by the Governor pursuant to subsection (b) of this section, the person filing the application may immediately file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense.

(3)(A) The board may waive the waiting period for filing a new application for pardon, commutation of sentence, or remission of fine or forfeiture described in subdivision ~~(e)(1)(A)~~ (c)(1) of this section if:

(i) It has been at least twelve (12) months after the date of filing the application that was denied; and

(ii) The board determines that the person whose application was denied has established that:

(a) New material evidence relating to the

person's guilt or punishment has been discovered;

(b) The person's physical or mental health has substantially deteriorated; or

(c) Other meritorious circumstances justify a waiver of the waiting period.

(B)(i) The board shall promulgate rules that shall establish policies and procedures for waiver of the waiting period.

(ii) The board may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d)(1) Except as provided in subdivision (d)(3) and subsection (e) of this section, if an application for pardon, commutation of sentence, or remission of fine or forfeiture of a person sentenced to life imprisonment without parole is denied in writing by the Governor, the person filing the application shall not be eligible to file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense for a period of:

(A) Six (6) years from the date of the denial; or

(B) Eight (8) years from the date of the denial if the applicant is serving a sentence of life without parole for capital murder, § 5-10-101.

(2) If an application for pardon, commutation of sentence, or remission of fine or forfeiture of a person sentenced to life imprisonment without parole is denied by the Governor pursuant to subsection (b) of this section, the person filing the application may immediately file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense.

(3)(A) The board or the Governor may waive the waiting period for filing a new application for pardon, commutation of sentence, or remission of fine or forfeiture described in subdivision (d)(1) of this section if:

(i) It has been at least twelve (12) months after the date of filing the application that was denied; and

(ii) The board determines that the person whose application was denied has established that:

(a) New material evidence relating to the

person's guilt or punishment has been discovered;

(b) The person's physical or mental health has substantially deteriorated; or

(c) Other meritorious circumstances justify a waiver of the waiting period.

(B)(i) The board shall promulgate rules that shall establish policies and procedures for waiver of the waiting period.

(ii) The board may make additions, amendments, changes, or alterations to the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e)(1) The Governor may specify that a denial in writing of an application for pardon, commutation of sentence, or remission of fine or forfeiture is with prejudice.

(2) If the Governor denies an application with prejudice, the applicant is barred from filing any subsequent application for pardon, commutation of sentence, or remission of fine or forfeiture while the Governor who issued the denial with prejudice serves as Governor.

(3) The effect of this subsection is in addition to any other waiting period specified by this section.

~~(e)(f)~~ If an application for pardon, commutation of sentence, or remission of fine is granted, the Governor shall:

(1) Include in his or her written order the reasons for granting the application; and

(2) File with the Senate and the House of Representatives a copy of the order that includes:

(A) The applicant's name;

(B) The offense of which the applicant was convicted;

(C) The sentence imposed upon the applicant;

(D) The date that the sentence was imposed; and

(E) The effective date of the pardon, commutation of sentence, or remission of fine.

~~(f)(1)(g)(1)~~ This section shall not apply to reprieves.

(2) Reprieves may be granted as presently provided by law.