

STATE BOARD OF PARDONS AND PAROLES



NOTICE OF INTENT TO CONSIDER AMENDING AN AGENCY RULE

Synopsis

Rule 475-3-.10 regarding Other Clemency. Amended, specifically paragraphs 3(b), (4), and (6), are in need of revision to clarify the waiting periods for applying for a pardon that does not imply innocence, and restoration of firearm, civil, and political rights, add language excluding former offenders who have been dishonorably discharged from the Armed Forces from consideration for restoration of firearm rights, as well as to make stylistic changes and provide consistency in terminology common to each paragraph. The current Rule provides that an offender must have completed his full sentence obligation and been free of supervision and/or criminal involvement for five years thereafter prior to applying for a pardon that does not imply innocence or restoration of firearm rights, unless he/she is a registered sex offender, in which instance he/she must have completed the full sentence obligation and been free of supervision and/or criminal involvement for ten years thereafter when applying for a pardon that does not imply innocence. It also provides that an offender must have completed his/her sentence and been free of supervision and/or criminal involvement for two years thereafter prior to applying for a restoration of civil and political rights. The proposed revision provides that an offender must have completed his/her full sentence obligation and been free of supervision and/or criminal involvement for at least five consecutive years thereafter as well as five consecutive years immediately prior to applying for a pardon that does not imply innocence or restoration of firearm rights, unless he/she is a registered sex offender, in which instance he/she must have completed his/her full sentence obligation and been free of supervision for at least ten consecutive years thereafter as well as ten consecutive years immediately prior to applying. It also provides that an offender must have completed his/her full sentence obligation and been free of supervision and/or criminal involvement for at least two consecutive years thereafter as well as two consecutive years immediately prior to applying for a restoration of civil and political rights. The proposed revision provides that the Board will not consider restoring firearm rights to a former offender who has been dishonorably discharged from the Armed Forces. Lastly, it also adds the female pronoun throughout other sections of the amended paragraphs where necessary and spells out the number ten. Therefore, in accordance with the Board's grant of authority pursuant to the Georgia Constitution, and in accordance with O.C.G.A. §§ 42-9-1, 42-9-45, 42-9-54, 42-9-56, and 50-13-4, notice is hereby given to the public of the Board's intent to amend paragraphs 3(b), (4), and (6) of Rule 475-3-.10 pertaining to Other Clemency. Amended.

Proposal

Note: Lined through text is proposed to be deleted; underlined text is proposed to be added.

Pursuant to the provision(s) of the Administrative Procedures Act, notice is hereby given to all interested persons that the State Board of Pardons and Paroles proposes to amend paragraphs

3(b), (4), and (6) of Rule 475-3-.10 pertaining to Other Clemency. Amended, as follows:

475-3-.10 Other Clemency. Amended.

(3)(b) A pardon which does not imply innocence may be granted to an applicant convicted under Georgia law who has completed his/her full sentence obligation, including serving any probated sentence and paying any fine, and ~~also who has thereafter~~ been free of supervision (custodial or non-custodial) and/or criminal involvement for at least five consecutive years thereafter as well as five consecutive years immediately prior to applying for a pardon, unless the applicant was convicted of a sex offense and is still required to register on the sex offender registry, in which instance he/she must be free of supervision (custodial or non-custodial) and/or criminal involvement for at least ten consecutive years thereafter as well as ten consecutive years immediately prior to applying after completion of the full sentence obligation. The applicable waiting period may be waived if the waiting period is shown to be detrimental to the applicant's livelihood by delaying his/her qualifying for employment in his/her chosen profession.

Application must be made by the ex-offender on a form available from the Board on request. The Board will provide notice to the registered victim(s) of the crime(s) and the district attorney(s) of the judicial circuits out of which all known convictions have occurred when considering granting a pardon that does not imply innocence to an applicant who was convicted of a serious offense as defined in O.C.G.A. § 42-9-42(b)(1); the victim(s) and district attorney(s) will have 30 days from the date of the notice to submit any information he/she wishes the Board to consider before making its decision on this matter. The review of such application and any victim or district attorney response will be based on the written record and will not include a hearing.

(4) Firearm Rights: The Board will consider restoring firearm rights to former offenders; ~~otherwise qualified for a Pardon or a Restoration of Civil and Political Rights, requesting a Pardon or Restoration of Civil and Political Rights or to whom the Board previously granted a Pardon or Restoration of Civil and Political Rights~~ without firearm rights if the applicant has completed his/her full sentence obligation, including serving any probated sentence and paying any fine, and also been free of supervision (custodial or non-custodial) and/or criminal involvement for at least five consecutive years thereafter as well as five consecutive years immediately prior to applying for restoration of such rights, unless the applicant was convicted of a sex offense and is still required to register on the sex offender registry, in which instance he/she must be free of supervision (custodial or non-custodial) and/or criminal involvement for at least ten consecutive years thereafter as well as ten consecutive years immediately prior to applying free of any criminal involvement for five years after completing their sentences. However, the Board will not consider restoring firearm rights to any former offender convicted of a federal offense or dishonorably discharged from the Armed Forces. The Board will provide notice to the registered victim(s) of the crime(s) and the district attorney(s) of the judicial circuits out of which all known convictions have occurred when considering restoring firearm rights to former offenders; the victim(s) and district attorney(s) will have ~~40~~ ten days from the date of the notice to submit any information he/she wishes the Board to consider before making its decision on this matter. The review of such application and any victim or district attorney response will be based on the written record and will not include a hearing.

(6) Removal of Disabilities. Under Georgia Law a person convicted of a felony involving moral turpitude loses his/her civil and political rights, including the right to vote, the right to hold public office, and the right to serve on a jury. The right to vote is restored automatically by operation of law upon completion of the sentence, including probation. Using an application form available on request, a person who was convicted under Georgia Law may apply for a Restoration of Civil and Political Rights. If the person was convicted under another state's law or under Federal law but is residing in Georgia and wishes to exercise civil and political rights in

this State, he or she also may apply. A Restoration of Civil and Political Rights carries no implication of innocence and may be granted only to a person who has completed his or her full sentence obligation, including serving any probated sentence and paying any fine, and also who has thereafter been free of supervision (custodial or non-custodial) and/or criminal involvement for at least two consecutive years thereafter as well as two consecutive years immediately prior to applying for restoration of such rights. The two-year waiting period may be waived if the waiting period is shown to be detrimental to the applicant's livelihood by delaying his or her qualifying for employment in his or her chosen profession.

The State Board of Pardons and Paroles will receive views presented by interested parties and otherwise consider this amendment of its Agency Rules at its next monthly open meeting on Tuesday, June 8, 2021, in the Board's Hearing Room, 5th floor, 2 Martin Luther King, Jr. Dr., Atlanta, Georgia. Written comments regarding this matter should be forwarded to the Board's Legal Office at 2 M.L.K. Jr. Dr., Atlanta, Georgia 30334. If you have any questions, you should call the Board's Legal Office at 404.651.6671.

Citation of Applicable Authority: Ga.Const.1983 Art. 4, § 2, ¶ 2; O.C.G.A. § 42-9-1; O.C.G.A. § 42-9-45; O.C.G.A. § 42-9-54; and O.C.G.A. § 42-9-56.

This 4th day of May, 2021.

La'Quandra L. Smith, Esq.
Executive Secretary to the Board