



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-DIR. 143.370
Date: February 20, 2020
Page: 1 of 3
Supersedes: January 17, 2020

BOARD DIRECTIVE

SUBJECT: CLEMENCY – SURVIVORS OF HUMAN TRAFFICKING OR DOMESTIC VIOLENCE

PURPOSE: To provide guidance for Board Members and staff of the Texas Board of Pardons and Paroles to process a full pardon application for persons who receive a conviction or deferred adjudication while a victim of Human Trafficking or Domestic Violence.

AUTHORITY: Texas Constitution Article 4, Section 11
Texas Code of Criminal Procedure Article 48.01 and 48.015
Texas Government Code Sections 508.035(d)(3), 508.084, and 508.115
Texas Administrative Code Title 37, Part 5, Chapter 143

DISCUSSION: The Texas Constitution authorizes the Governor to grant clemency upon the recommendation and advice of a majority of the Texas Board of Pardons and Paroles (Board). An individual who is convicted and sentenced or placed on deferred adjudication community supervision may request clemency from the Governor.

The Board shall review and consider applications for persons who have been convicted of or received a deferred adjudication for an offense while under force, fraud, duress or coercion as a result of being a victim of an offense under Chapter 20A, Penal Code, or a victim of family violence as defined in Chapter 71, Family Code.

If the Board does not recommend a full pardon or if the Governor denies the individual a full pardon, the individual must wait two years from the date of the recommendation or denial to re-apply.

DEFINITIONS: Trial Officials – the Sheriff, Chief of Police, prosecuting attorney, and Judge in the county and court of conviction and release.

PROCEDURE:

- I. Application – Upon receipt of an application from an individual, individual’s attorney, or a person acting on an individual’s behalf, the Board’s Clemency Section (BCS) staff will create a clemency file.
 - A. An individual may request a full pardon for one or more misdemeanor or felony convictions or deferred adjudication. The offender must complete or discharge his sentence(s) in order for the Board to consider a recommendation to the Governor to grant a full pardon. However, the Board may consider a full pardon application from an individual who is currently in prison if the individual indicates exceptional circumstances, or from an individual who has been under supervision for at least two years with no violations in the year preceding the application date.
 - B. If an individual who was convicted and sentenced to community supervision successfully completes the community supervision, the Board may not consider the individual for a pardon for that offense because there is nothing for the Governor to pardon. However, if the court fails to remove all disabilities and dismiss the indictment or information, the Board may recommend and the Governor may grant clemency.
 - C. If an individual has pending charges in this state or any other state, the Board will not consider the application.
- II. Notebooks – Upon receipt of all the appropriate documents, the BCS staff will prepare a clemency notebook for the Board Members.
 - A. In addition to the signed application, the individual must provide three letters of recommendation from non-family members as well as all court documents. An attorney representing the individual must submit a fee affidavit and registration form with the application if the offender was convicted and sentenced to a term of incarceration in the Texas Department of Criminal Justice (TDCJ) Correctional Institutions Division.
 - B. When the application is complete, the BCS staff will send letters to the trial officials and TDCJ Victim Services, if appropriate, notifying them that the individual has submitted an application requesting a full pardon and soliciting their input.
- III. Board Members’ Vote – The Board Members shall sign and date the voting sheet.
 - A. Upon a majority vote to recommend a full pardon, the BCS staff shall send the case to the Governor and notify all trial officials as required by Texas Government Code Section 508.115. The BSC staff will also notify the applicant and TDCJ Victim Services, if appropriate. The notice must be provided by email or other electronic communication.

- B. If the Board votes not to recommend clemency or if the Governor denies clemency, the BCS staff shall notify the applicant, trial officials who submitted a response to the request for input, and TDCJ Victim Services, if appropriate.

SIGNED THIS, THE 20TH DAY OF FEBRUARY, 2020.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*