



Pardons

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WHAT IS A PARDON?

A pardon is an official act of forgiveness for a criminal offense. A pardon relieves an offender of many lasting legal consequences of conviction by restoring the individual's civil rights.

Pardon is one form of clemency offered by governments in many countries and states around the world, including the U.S. federal government and all 50 U.S. state governments. Other forms of clemency include reprieve, which is the temporary delay of punishment, or commutation, which is a reduction in punishment.¹

WHO GRANTS A PARDON?

The President has authority to grant a federal pardon and the Governor of a state typically has authority to grant a state pardon. However, there are several states in which the Governor is merely one member of a pardoning board that contains other state-level officials, or in which pardon authority is vested in an independent board rather than the Governor.

In Wisconsin, pardon authority rests solely with the Governor. Wisconsin Constitution Article V, Section 6, empowers the Governor to pardon state criminal convictions for any offense, other than treason or cases of impeachment. The Governor has broad discretion over how pardon requests are considered and granted, subject only to statutes relating to how to apply for a pardon. The Constitution grants the Governor the power to grant pardons, but the Governor can choose not to do so.

Since 1980, most Wisconsin Governors have used pardon advisory boards to help evaluate pardon applications and make recommendations. State law does not create a pardon advisory board or require its use. Instead, individual Governors decide whether to use a pardon advisory board and how to structure the board's membership and work.

WHAT IS THE EFFECT OF A PARDON?

The Wisconsin Governor may pardon a person for his or her convictions in Wisconsin, but cannot pardon a person for federal convictions or convictions from other states. A pardon in Wisconsin restores a person's civil rights, including the right to hold office, possess firearms, and to hold certain licenses.²

The Governor may grant either a full pardon or a conditional pardon. A full pardon restores all of an individual's rights, while a conditional pardon may impose restrictions on a pardoned individual, or restore only some but not all of a person's rights. For instance, the Governor may grant a conditional pardon that does not restore a person's right to possess a firearm.

HOW IS A PARDON DIFFERENT FROM EXPUNGEMENT?

A pardon restores rights but does not protect a person's record from public view. Expungement seals a person's court record so that an expunged conviction is removed from the publicly accessible court website (commonly known as "CCAP") and information about the conviction cannot be obtained from the court. In contrast, a pardon does not remove a person's conviction from public view on CCAP. Instead, a notation appears on CCAP indicating that a particular conviction was pardoned.

HOW CAN A PERSON OBTAIN A PARDON?

A person seeking a pardon must apply to the Governor and provide whatever information and materials the Governor requires. State statutes dictate that applicants for a pardon must include certain materials, and publish certain notices, but the application requirements are otherwise within the Governor's discretion.³

Each Governor determines who is eligible to apply for a pardon and what evaluation criteria will be used. Governor Tony Evers requires an applicant to complete a nine-page notarized pardon application form, and meet the following eligibility requirements:

- **Pardon for a Felony.** An applicant must be seeking a pardon for a Wisconsin felony conviction.
- **Five Years "Off Paper."** An applicant must have completed all confinement and probation, parole, or extended supervision at least five years ago.
- **No New Crimes.** An applicant cannot have been convicted of any new criminal offense and cannot be subject to any pending charges.
- **Not a Sex Offender.** An applicant cannot be a registered sex offender.

Governor Evers created a pardon advisory board to hold hearings on pardon applications and generate recommendations. The board consists of up to nine individuals appointed by the Governor, including the Governor's chief legal counsel as chairperson and an individual nominated by the Attorney General.⁴ If the board recommends clemency for the applicant, the board forwards the recommendation to Governor Evers for his final decision and action.

WHERE CAN PARDON APPLICATION INFORMATION BE FOUND?

Pardon Application: https://evers.wi.gov/Documents/PardonApp_July2019.pdf.

Pardon FAQ: <https://evers.wi.gov/Pages/pardon-information.aspx>.

WHERE CAN INFORMATION ON GRANTED PARDONS BE FOUND?

Wisconsin Constitution Article V, Section 6, requires the Governor to communicate the information about granted pardons to the Legislature each year, including the individual's name, crime, sentence, date of pardon, and the Governor's reasons for granting the pardon. Pardons from prior years are recorded in the Senate Journal or Assembly Journal.⁵ The Office of the Secretary of State also maintains a database of granted pardons dating back to 1977.⁶

¹ All three of these forms of clemency are available in Wisconsin. Wisconsin Constitution, Article V, Section 6, provides the Governor with "power to grant reprieves, commutations, and pardons."

² An individual regains certain civil rights even without a pardon. The right to vote and serve on a jury are restored after an individual completes his or her sentence, including any period of probation or supervision. [See ss. 304.078, 756.02 and 941.29, Stats.]

³ Sections 304.09 (3) and 304.10 (1), Stats.

⁴ Governor Evers created his pardon advisory board in Executive Order #30 (June 12, 2019): https://docs.legis.wisconsin.gov/code/executive_orders/2019_tony_evers/2019-30.pdf.

⁵ An example of pardons reported to the Legislature can be found in a 2007 Senate Journal entry at: https://docs.legis.wisconsin.gov/2007/related/journals/senate/20070423/_61.

⁶ The Secretary of State's pardon database: <https://www.sos.state.wi.us/pardons.htm>.