



Pardons in Pennsylvania: Moving from “Extraordinary” to Expected

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THANK YOU!

Delaware

Connecticut

Ohio

**Margaret Colgate Love and the
Collateral Consequences Resource Center**

== TAKE AWAY ==

ASK A SUCCESSFUL PROGRAM!!

Pardons in PA: What?

“A pardon completely frees the offender from the control of the state. It not only exempts him from further punishment but relieves him from all the legal disabilities resulting from his conviction. **It blots out the very existence of his guilt, so that, in the eye of the law, he is thereafter as innocent as if he had never committed the offense.**”

Diehl v. Rodgers, 169 Pa. 316 (1895), affirmed in
Com. v. C.S., 534 A.2d 1953 (Pa. 1987)

PA Constitution

Article IV, § 9. **Pardoning power; Board of Pardons.**

(a) In all criminal cases except impeachment the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutation of sentences and pardons; **but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons**, and, in the case of a sentence of death or life imprisonment, on the unanimous recommendation in writing of the Board of Pardons, **after full hearing in open session, upon due public notice.**

PA Board of Pardons: *A Constitutional Agency*

- A pardon is the “exercise of the sovereign’s prerogative of mercy,” and the pardoning power **cannot be “restricted, or its operation limited, by legislation.”** *Diehl v. Rogers*, 32 A. 424, 425 (Pa. 1895).
- “Action by the Board of Pardons is in accordance with constitutional provisions and **in no way comes under the aegis of the courts.”** *Commonwealth ex rel. Cater v. Myers*, 194 A.2d 185, 187 (Pa. 1963)

The Law on Granting Pardons in PA

Members of the BOP

Article IV, § 9(b) “The Board of Pardons shall consist of the **Lieutenant Governor** who shall be chairman, the **Attorney General** and three members appointed by the Governor with the consent of a majority of the members elected to the Senate for terms of six years. The three members appointed by the Governor shall be residents of Pennsylvania. **One shall be a crime victim, one a corrections expert and the third a doctor of medicine, psychiatrist or psychologist.**”

The PA Pardon Process

- 1) Application to Board of Pardons (BOP)**
- 2) Input by District Attorney and Court**
- 3) Investigation by the DOC (victim, applicant, anyone else the agent decides)**
- 4) “Merit Review” vote by BOP**
- 5) Public Hearing and vote by BOP**
- 6) Decision by the Governor**
... Expungement by the Court

Pardons: **Where PA Was** (2018)

- 9 page application, 14 pp of instructions
- **Application failure rate of 84%** (Auditor Gen. 2017)
- Had to submit 5 copies and attach:
 - Color passport-sized photo, Full arrest record from state police (\$20; 4-6 mos), Full driver's record from PennDOT (\$10)
- Extensive, intrusive investigation by parole agnt
- Hearings held **ONLY** in the Supreme Courtroom
- ~ 200-250 hearings/yr, ~ 30% success rate
- 5 years from application to pardon (mostly white)

Pardons: Where PA Is Today

- Application form is free, online, written in Plain English (mostly), and only 4 pages; and on its way to being fully online (ETA: January 2023)
- Process takes 2.5 yrs; less for expedited track(s)
- Investigation is limited/targeted
- Hearings held via Zoom with some excused
- 1400+ pardon applications/yr (very diverse)
- **Over 80% receive hearings, 87% are recommended, 95% are signed**

Governor Wolf has signed 2,098 pardons

Why the Change???

- **A VERY energetic Lt. Gov and Atty Gen**
- Opioid crisis
- Growing consensus on marijuana
- 13th/New Jim Crow/1619 Project/
BLM/ George Floyd/Meek Mill
- Diversity goals (eg, apprenticeship programs) and need for skilled workers
- Political consensus supporting “Clean Slate”
- **Changing understanding of the issue**

Pardons and Poverty

“From our perspective, it is undeniable that criminal records are a major factor in keeping people in poverty.”

~ Earl Buford, CEO



January 10, 2019

Overlap with Philanthropy

“I do not believe there is a single agency we partner with that does not understand the negative effects criminal records cause individuals and families. **Our society can invest every dollar we have in job training and workforce development, but we have no chance to succeed if these individuals are still prevented by the bad choices they made decades ago from getting the jobs or housing for which they are qualified today.**”

~ Nikia Owens, Ph.D., Managing Director
Financial Empowerment, United Way GPSNJ

The Economic Impact of Pardons

“[P]ardons filed by PA residents from 2008-2018 had an **estimated impact of \$16,494,815....** The aggregate impact of all pardon recipients is **50% higher in low-income communities than high-income communities....** [Pardons] should be considered as **no-cost workforce development and neighborhood investment tools.**”

The Economy League, *Pardons as an Economic Investment Strategy: Evaluating a Decade of Data in Pennsylvania* (April 2020)

Key to PA's Economy

“One of our department’s key objectives is **to make Pennsylvania's workforce globally competitive**, and that means preparing job seekers through employment and job training services. **It’s enormously frustrating that a criminal record from 5, 10, even 15 years ago can stop them from getting good jobs today. ...[G]etting past those histories is key to Pennsylvania’s economic future.** I applaud Lt. Governor Fetterman and the Board of Pardons for what they have already done to make pardons more accessible, and encourage them to keep going.”

~~W. Gerard Oleksiak, Secretary
PA Department of Labor and Industry, April 2020

PA Workforce Advisory Board

Recommendation: **Increase the capacity of the Board of Pardons (BOP) to both decrease the amount of time for an application to be considered and to increase the number of individuals who can have their pardons heard within one year.**

Recommendation to Gov. Wolf

August, 2020

**Pardon Projects:
At Work or On the Rise
in 23 of 67 Counties**

Allegheny, Beaver, Berks, Bucks, Centre,
Chester, Cumberland, Dauphin, Delaware,
Erie, Lackawanna, Lancaster, Lawrence,
Lebanon, Lehigh, Luzerne, Montgomery,
Philadelphia, Somerset, Washington,
Wayne, Westmoreland, and York

<https://PardonMePA.org>

Resolutions/Support

Electeds – Commissioners, Mayors, Senators

Bar Associations of Philadelphia, Allegheny,
Dauphin, Erie, Lackawanna

Pennsylvania Bar Association (x2)

Assn of Prothonotaries and **Clerks of Court**

Juvenile Court Judges Commission

Interbranch Commission for Gender, Racial
and Ethnic Fairness

..... ***District Attorney Association of PA***

.....***Chambers of Commerce***

The Beauty of Pardons

**The power already exists,
no legislative action is necessary,
and the pitch is easy:**

Neighbors Helping Neighbors

The Downside of Pardons

NOVEMBER 8, 2022

Questions/Suggestions/Info

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Additional Information

Resources For New Pardon Projects

<https://www.plsephilly.org/pardon-project-statewide/resources/>

Pardon Project Steering Committee Members

District Attorneys and Public Defenders, Judges, Clerks of Court, elected officials, legal aid, leaders of bar associations, businesses and chambers of commerce, workforce development agencies, recovery and reentry communities, community activists, community action agencies, public health clinics, non-profits, United Ways and other funders, communities of faith, and individuals with lived experience who are struggling to do their best despite their records

Essential Jobs in PA where the licensing board may or does consider criminal convictions

Accountant, Architect, Athletic trainer, Auctioneer, Barber, Bondsman, **Casino employee**, Chiropractor, **Cosmetologist**, Dental hygienist, Dentist, Employment agent, Engineer, **Funeral director**, Geologist, **Home health care**, Horse racing, Hunting/trip permit, **Insurance adjuster**, Land surveyor, **Medical technician-emergency (EMT)**, **Midwife**, Mortgage broker, Motor vehicle dealer, **Nurse (registered nurse and licensed practical nurse)**, **Occupational therapist**, Optometrist, Osteopath, Pawnbroker, Pharmacist, **Physical therapist**, Physician, **Physician's assistant**, Podiatrist, Private detective, Psychologist, Radioactive waste disposal, **Real estate appraiser**, Real estate broker, Salesperson of game of chance, Speech pathologist, **Social worker**, Tax assessor, **Taxi driver**, **Teacher of the impaired**, **Truck drivers** of hazardous materials, **Vehicle damage appraiser**, Veterinarian, **ANY job involving "routine interaction with children"**

“For us, in Philadelphia, removing criminal records is not just the right thing to do for individuals, and not just the right thing to do for their families: it is a *critical and essential neighborhood investment strategy*. We have to *get people working at their highest and best levels*. And best of all, removing their stigma costs us nothing - it’s entirely free.”

~ Hon. Marcel Pratt, City Solicitor, Philadelphia

January 29, 2019

Overlap with Public Health

“Today in America, **criminal records** exclude millions of people from engaging fully in community and social life. They keep financial stability out of the reach of individuals and their families, for generations. *That’s why I believe **criminal records are a key determinant of public health, and one that the health profession can and must help address.***”

~ Ana Pujols-McKee, MD, Executive Vice President & CMO, The Joint Commission (Aug 2020)

PA Workforce Advisory Board

Recommendation: The Commonwealth should take all requisite steps, including, if necessary, promulgating new regulations, to ensure the prompt review (within one year) by the Board of Pardons of all applications for pardon from **Pennsylvanians who completed their sentences five or more years ago on convictions that did not include crimes of violence and who have remained arrest-free ever since."**

Recommendation to Gov. Wolf

November 2021

Pardons: **Where PA Was** (2018)

- 9 page form with 14 pages of instruction
- Had to be purchased (\$18 + \$25 filing fee) and typed/handwritten
- Had to specify docket number, OTN, date, offense, level of crime, specific statute, and sentence; juvenile record; arrests not resulting in conviction; non-traffic and driving citations
- Had to attach:
 - Color photo/photo
 - Full arrest record from state police (\$20; 4-6 mos)
 - Full driver's record from PennDOT (\$10)

Pardons: **Where PA Was** (2018)

- **Application failure rate of 84% (2017)**
- Lawyers charged \$4-7,000
- Submit 5 copies
- Detailed 10-yr investigation by Parole Agents
- <200 cases heard/yr in Harrisburg in the PA Supreme Courtroom
- Predominantly white, professional class
- Approximately a 30% recommendation rate
- No accountability by the Governor

Pardons: Where PA Is Today

- For each conviction, provide date, OTN and crime(s) – plus 6 documents from the underlying court file
- Essay #1: “Describe the incident and how you were involved. Where were you, what did you do, and how were you caught?”
- Essay #2: OPTIONAL Personal Statement. “If you decide to include a personal statement, it **may** include:
 - ✓ A summary of how your life or circumstances have changed since your last arrest
 - ✓ Reasons you seek clemency
 - ✓ Reasons you feel you are a good candidate for consideration
 - ✓ Information you feel supports your request”

The Bottom Lines

- Volunteer Pardon Projects are springing up all across the state
- Court Clerks are providing records for free via PDF/email for low-income applicants
- Over 1400 pardon applications/yr and applicants are diverse
- Over 80% receive hearings, 87% are recommended, 99% are signed
- *As of 8-23-2022, Governor Wolf had signed 2,098 pardons*

