

CHAPTER 13
EXECUTIVE CLEMENCY
[615—Ch 14 transferred to 205—Ch 5, IAB 2/22/89]
[Prior to 4/5/23, see 201—Chapter 14]

205—13.1(902) Interviews of inmates serving life terms without the possibility of parole. The board shall not grant a parole or work release to a class “A” felon serving a life term without the possibility of parole unless the governor commutes the sentence to a term of years. Administrative rules relating to the parole and work release consideration of an inmate sentenced to an indeterminate term shall not apply to an inmate sentenced to a life term without the possibility of parole.

[ARC 3297C, IAB 8/30/17, effective 10/4/17; ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—13.2(902) Review of inmates serving life terms. The board may, at its discretion, review the record of a class “A” felon serving a life term.

[ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—13.3(914) Executive clemency applications.

13.3(1) Applications to the board.

a. A person convicted of a criminal offense may apply to the board for a recommendation to the governor for a reprieve, pardon, commutation of sentence, or remission of fines and forfeitures at any time following the person’s conviction.

b. An application for a pardon or commutation of sentence shall be on the form provided by the board. The form may be obtained by contacting the board’s business office or the office of the governor.

c. An application for a reprieve or remission of fines and forfeitures shall be in writing.

d. The applicant shall submit the executive clemency application to the board’s business office.

13.3(2) Applications to the governor. Upon the request of the governor, the board shall take charge of all correspondence in reference to an executive clemency application filed with the governor and shall provide the governor with the board’s advice and recommendation.

13.3(3) Restoration of citizenship.

a. A person convicted of a criminal offense may apply for restoration of citizenship at any time following the discharge of the person’s sentence.

b. A person applying for restoration of citizenship shall submit the form to the governor. This form may be obtained from the governor’s office or from the board.

[ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—13.4(914,902) Board investigation. The board may investigate an application with respect to history, current situation, parole prospects and other pertinent matters. The board may consider the application or recommendation, transcripts of judicial proceedings and all documents submitted with the application, and other documents as the board determines is appropriate, and may interview, directly or through its agent, public officials, victims, and witnesses and other individuals as the board determines is appropriate.

[ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—13.5(914,902) Executive clemency recommendations.

13.5(1) Decision.

a. The board shall recommend that the governor grant commutation of sentence to a class “A” felon serving a life term when the board unanimously agrees that the inmate should be considered for release on parole. If the board does not unanimously agree, the board shall recommend that the governor not grant commutation of sentence.

b. The board shall recommend that the governor grant executive clemency to a person other than a class “A” felon serving a life term when at least three members of the board agree that the person has demonstrated that the person will become or continue to be a law-abiding citizen. If three members of the board do not agree, the board shall recommend that the governor not grant executive clemency.

c. The board may utilize the resources of the department of public safety for assistance with any part of the board's investigation.

13.5(2) *Notice of board recommendation.* The board shall give notice of an executive clemency recommendation to the office of the governor and, if requested, to the inmate or applicant.

13.5(3) *Board consideration following commutation.* The board shall consider the parole and work release prospects of an inmate whose sentence has been commuted by the governor.

13.5(4) *Executive clemency reconsiderations.*

a. The board may reconsider a positive or negative recommendation prior to the governor's decision when previously unknown and material information comes to light, material actions or events relevant to the application occur, the governor directs the board to further investigate the application, or good cause is otherwise shown. The procedures for reviewing an executive clemency application shall apply to the reconsideration of a recommendation.

b. The board may amend its recommendation as deemed appropriate.
[ARC 6968C, IAB 4/5/23, effective 5/10/23]

205—13.6(902,915) Commutation procedure for class "A" felons.

13.6(1) *Initial review.* The board, or its designee, will initially review an application for commutation to determine whether the inmate is eligible to apply for commutation pursuant to Iowa Code section 902.2. If the inmate is not eligible to apply for commutation, the board shall return the application to the applicant.

13.6(2) *Parole board commutation investigation process.*

a. If the applicant is eligible to apply for commutation, the board shall conduct an investigation pursuant to subrule 13.6(2).

b. The board may consider any documents the board deems appropriate including, but not limited to, the application and attached documents, transcripts of judicial proceedings, corrections information, and written recommendations, statements, and interviews of the offender, public officials, victims, and witnesses.

c. The board shall interview the applicant prior to submitting its recommendation to the governor. The board may interview any other person the board deems appropriate including, but not limited to, public officials, victims, and witnesses.

d. The board shall attempt to provide notice of the commutation interview to any individual who would qualify as a victim under Iowa's victim notification law. Notice shall be by regular mail to the last-known address or by electronic mail. The notice shall provide a specified amount of time for the victim to provide a statement to the board regarding the application for commutation.

e. The board may hold a public hearing to receive comments from the general public on an application for commutation. The determination to hold a public hearing to receive public comments is solely at the discretion of the board.

13.6(3) *Recommendation and report.*

a. Any decision to recommend commutation for a class "A" felon shall be by unanimous vote. The board may continue the matter until such time as the board may determine by majority vote.

b. The board may consider any factor it deems appropriate when considering commutation including, but not limited to, the nature and circumstances of the crime, the number of years the applicant has served, the applicant's previous criminal record, the applicant's conduct while confined, the impact on the victim, and the public interest.

c. The board shall prepare a written report of its findings and recommendations and forward its report to the governor.

d. In making such a recommendation, the board shall also indicate the existence of any registered victims and communicate any opinions expressed by those victims regarding release of the inmate.

13.6(4) *Board consideration following commutation.* The board shall consider the parole and work release prospects of any inmate whose life sentence has been commuted by the governor. The grant of

commutation does not require the board to grant parole or work release. The board shall consider parole or work release pursuant to the standards in 205—Chapter 8.

[ARC 3297C, IAB 8/30/17, effective 10/4/17; ARC 6968C, IAB 4/5/23, effective 5/10/23]

These rules are intended to implement Iowa Code sections 902.2, 902.4, and 904A.4(7) and chapters 914 and 915.

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