

KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 23-101A	PAGE NUMBER 1 of 4								
	SUBJECT: PRISONER REVIEW BOARD: Applying for Clemency Consideration and Payment of Publication Notice										
Approved By:  Secretary of Corrections	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Original Date Issued:</td> <td style="text-align: right;">04-29-15</td> </tr> <tr> <td>Replaces Version Issued:</td> <td style="text-align: right;">N/A</td> </tr> <tr> <td colspan="2">CURRENT VERSION EFFECTIVE:</td> </tr> <tr> <td colspan="2" style="text-align: right;">04-29-15</td> </tr> </table>			Original Date Issued:	04-29-15	Replaces Version Issued:	N/A	CURRENT VERSION EFFECTIVE:		04-29-15	
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APPLICABILITY:	<input checked="" type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input type="checkbox"/> DEPARTMENT-WIDE
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POLICY STATEMENT

Any offender may file an application for executive clemency. The Department shall pay the costs of publication for clemency applications made by offenders lacking the financial resources to pay for them in accordance with K.S.A. 22-3701.

DEFINITIONS

None.

PROCEDURES

I. Initiating the Executive Clemency Application Process

- A. Staff assistance and all necessary forms shall be provided to offenders interested in filing for executive clemency.
- B. Each warden shall ensure that a supply of current clemency application forms and other related forms are available to all offenders through the Unit Team.
- C. All clemency actions shall be initiated using the Prisoner Review Board Application for Clemency (Attachment A).
 - 1. The Application for Clemency may be prepared by the offender, or at the request of the offender, by the Unit Team. The application for clemency shall be distributed as follows:
 - a. The original to the Prisoner Review Board; and,
 - b. A copy to the offender.
- D. Clemency applications and other related forms shall not be forwarded to the Prisoner Review Board individually, but shall be held by the offender and/or facility, as appropriate, until all related forms required by this IMPP have been prepared, and such forms can be forwarded to the Prisoner Review Board as complete package.
- E. Pursuant to K.S.A. 22-3701, a Notice of Clemency Application (Attachment B) shall be mailed to the judge(s) of the district court and county/district attorney) for the county(ies) in which the offender was sentenced.

1. The Notice of Clemency Application form shall be prepared by designated personnel and distributed as follows:
 - a. An original to the judge of the district court for each sentence considered in the clemency application;
 - (1) Care shall be taken to ensure that the mailing is addressed, by name and court division number, to each individual sentencing judge in the case.
 - (2) If the sentencing judge is no longer serving on the bench, the mailing shall be addressed to the judge in the same division where the original sentencing took place.
 - b. An original to the district/county attorney in each county/district in which there is a conviction that is being considered in the clemency application;
 - c. A copy to the Prisoner Review Board; and,
 - d. A copy to the offender's facility master file.

II. Publication

- A. Designated personnel will notify the Office of Victim Services seven (7) business days prior to processing the Request for Publication form with the official county newspaper(s).
 1. Notification to the victims and the family of the deceased victims shall be in accordance with the provisions of IMPP 21-101.
- B. Designated personnel shall prepare a Request for Publication form (Attachment C) and distribute copies as follows:
 1. The original to the official county newspaper of each county of conviction considered in the clemency application;
 2. A copy of each notice to the Prisoner Review Board; and,
 3. A copy of each notice to the offender's facility master file.

III. Payment of Clemency Publication Notices

- A. Application for Waiver of Publication Costs
 1. An offender who makes application for clemency shall be assessed the costs of the publication notice unless he or she makes application for waiver of these costs by completing a poverty affidavit (Attachment D).
 - a. Each offender who makes an application for clemency shall be informed that he or she shall be charged for these costs unless this affidavit is submitted.
- B. Review of Application for Waiver of Publication Costs
 1. Upon submission of a poverty affidavit by an offender, the representations made by the offender shall be verified by the facility business manager or designee for content and accuracy.
 - a. If the review discloses that the offender either has sufficient funds or will have sufficient incentive pay by the end of the month to pay the publication costs, the poverty affidavit shall not be accepted and the offender shall be informed that the State will not pay the publication costs.

- b. The offender shall be given the option of either paying the publication costs or withdrawing the clemency application.
 2. If the offender elects to proceed with the clemency application after the poverty affidavit has been rejected, the amount of the publication costs shall be withdrawn from the offender's account if sufficient funds are available.
 - a. If sufficient funds will be available by the end of the month through the accrual of incentive pay the clemency application shall be processed and the offender's account flagged. The costs of publication shall then be subtracted from the incentive pay award.
 - b. If the review discloses that the offender neither has sufficient funds nor will have sufficient incentive pay by the end of the month to pay the publication costs, the poverty affidavit shall be accepted and certified by the facility Business Manager or designee, and, the offender shall be informed that the State will pay the publication costs.
- C. Limits On Applications For Waiver Of Publication Costs
1. The State shall not pay for more than one (1) publication notice for any one (1) offender during any 12 month period.
 - a. Publication costs in excess of one (1) notice per offender per 12 month period shall be the responsibility of the offender filing the application for clemency.

IV. Legal Representation

- A. The Affidavit-Executive Clemency and Parole Matters form (Attachment E) shall be provided to an offender who requests legal representation or to his/her attorney.
 1. If the Affidavit form (Attachment E) is provided to the offender, it shall be his/her responsibility to send the form to his/her attorney.
 - (a) The legal representative shall be informed that the Affidavit needs to be completed by him/her and signed before a notary.
 2. The Affidavit shall be returned to the offender for inclusion with the original clemency application when it is submitted to the Prisoner Review Board.
 - a. The offender shall keep a copy of the Affidavit and provide a copy to the facility Parole Officer.
 - b. In accordance with K.S.A. 22-1706, the failure to file the Affidavit with the clemency application shall result in the offender's application not being considered by the Prisoner Review Board.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

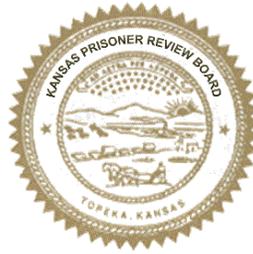
None.

REFERENCES

K.S.A. 22-3701, 22-3706
IMPP 05-108, 21-101

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Application for Clemency	1 page
B	Notice of Clemency Application	1 page
C	Request for Publication	1 page
D	Affidavit (To proceed as Pauper in Clemency Application)	1 page
E	Affidavit-Executive Clemency and Parole Matters	1 page



PRISONER REVIEW BOARD
JAYHAWK WALK
714 SW JACKSON, SUITE 300
TOPEKA, KANSAS 66603-3722
(785) 296-4524

APPLICATION FOR EXECUTIVE CLEMENCY

Under K.S.A. 22-3701, the Prisoner Review Board is responsible for processing and reviewing applications for Executive Clemency. The law requires that the sentencing court and prosecuting attorney be notified of the application, and that a notice be published in the official county paper. The Prisoner Review Board then reviews pertinent records, reports, and other available information. If a personal interview with the applicant is needed, the applicant will be notified. Following review, the **Prisoner Review Board** submits its report to the **Governor**, who makes the final decision in all clemency matters. Applicants must supply the information requested below.

Name & KDOC Number: _____

Did you plead guilty? _____ Did you appeal? _____ If so, state decision: _____

Did you file motions under K.S.A. 60-1507, or habeas corpus actions in either state or federal court concerning your conviction? _____ If so, state decision : _____

Reasons for seeking Clemency (use extra page if needed). Note: If you prefer not to disclose your reasons to facility officials, please put information in a sealed envelope, labeled Prisoner Review Board, and give this along with your application, to the facility **Clemency Clerk**.

TO THE GOVERNOR OF THE STATE OF KANSAS:

I hereby make application for Executive Clemency for the reasons above, and affirm that the information contained in my application is true and correct to the best of my knowledge and belief.

/ / _____
DATE Applicant's Signature & KDOC Number

KANSAS DEPARTMENT OF CORRECTIONS
PRISONER REVIEW BOARD
JAYHAWK WALK
714 SW JACKSON, SUITE 300
TOPEKA, KANSAS 66603-3722
(785) 296-4524

DATE: / /

REQUEST FOR PUBLICATION FOR CLEMENCY

A check for \$_____ is enclosed to pay for the cost of publishing the notice shown below. The notice should be published one time only, between the _____ of _____. Immediately after publication, please return to the address below the affidavit of publication properly executed and a copy of the printed notice. This is necessary to meet statutory requirements, and the petitioner's application for Executive Clemency cannot be completed until proof of publication is received.

Return to: Kansas Department of Corrections
Prisoner Review Board
Jayhawk Walk
714 SW Jackson, Suite 300
Topeka, KS 66603-3722

NOTICE OF PUBLICATION

_____ sentenced _____
for _____ in _____ County, Kansas, has applied for executive clemency. Persons wishing to comment should send information in writing to the above address within fifteen (15) days after the date of publication.

Attach Printed Notice Here:

Affidavit

This is to certify that the above notice, a printed copy of which is attached, was published on _____ in the _____, which is the official county newspaper for _____ County, Kansas.

Printer's fees: \$_____.

Signature of affiant: _____ Title: _____

Name of paper: _____ Location: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day of _____, 20_____.

Notary Public

My commission expires / /

A F F I D A V I T

(To proceed as Pauper in Clemency Application)

STATE OF KANSAS)
) ss:
COUNTY OF _____)

_____, being duly sworn, states:
(Name and register number)

1. That I am presently incarcerated at _____, for a term of _____ years, and desire to apply for Executive Clemency;
2. That I have _____dollars in my inmate trust account and will not receive incentive pay in a sufficient amount by the end of the month to pay the cost of publication of notice of this application.
3. That I do hereby request the cost of said publication be paid by the State of Kansas in accordance with law, and that I be permitted to proceed as a pauper.

Signature of Offender

SUBSCRIBED AND SWORN before me this _____ day of _____, 20_____

(S E A L)

Notary Public

My Commission Expires: _____

Certification by Facility Official

I hereby certify that, as of this date, the above-named inmate has the amount of \$_____ in his current inmate account, which amount may be drawn against for his personal expenditures. I further certify that this inmate will not receive incentive pay by the end of this month in an amount sufficient to pay more than _____ dollars of publication costs (insert amount of incentive pay to be received by end of the month). I also certify that the State of Kansas has not paid for the cost of clemency publication for this inmate during the past twelve months.

Date

Facility Business Manager

BY: _____
(Assistant Chief Clerk)

**PRISONER REVIEW BOARD
TOPEKA, KANSAS**

K.S.A. 22-3706 provides as follows: "Person acting as agent or representative of individual seeking release; contingent fee prohibited; statement and affidavit. No person acting as agent or representative for an individual before the board for pardon, commutation of sentence, parole or revocation of parole, conditional release or post-release supervision shall contract for or receive a fee contingent upon a certain decision by the board. Such agent or representative shall submit a statement on the applicant's behalf to the prisoner review board in writing and shall submit therewith an affidavit stating such agent's representative's name; place of residence; the name of the applicant being represented or has been represented; the fee, if any, paid to or to be paid to such agent or representative by any person for such services; that such fee is not or was not a contingent fee. If any person representing any applicant for pardon, commutation of sentence, or parole shall fail to file such affidavit the application shall not be considered. Any affidavit filed as provided in this section shall be a public record."

AFFIDAVIT-EXECUTIVE CLEMENCY AND PAROLE MATTERS

State of: _____

County of: _____

The affiant, _____
(Name and Address)

of lawful age, being duly sworn, states that affiant is an attorney at law admitted to practice within the state
of _____

by _____
(Name and Address of Client)

to represent _____
(Name of Offender or Parolee) (Number)

for _____; and that the fee for
affiant's services is \$ _____ to be paid by _____
(Name of Payor)

and that \$ _____ of the fee has already been paid:

Affiant further states that the fee is not or was not contingent upon granting or denial of the aforesaid application.

(Signature of Affiant)

Subscribed and sworn before me this _____ day of _____ 20____

(SEAL)

Notary Public

My appointment expires _____