

# State Clemency Resources

## Which form(s) of clemency does the state offer?

- Pardon
- Commutation
- "Other," which includes remission of fines/forfeiture of a temporary suspension or reprieve

## Decisionmaker

The Board of Pardons and Parole (BOPP) is responsible for reviewing requests for executive clemency and making recommendations to the Governor. The Governor has sole authority to grant or deny clemency.

### Resources:

- [bopp.mt.gov](http://bopp.mt.gov)
- [Executive Clemency Process Flow Chart: bopp.mt.gov/\\_docs/hearings/Clemency-Flow-Chart\\_as-of-7-12-22.jpg](http://bopp.mt.gov/_docs/hearings/Clemency-Flow-Chart_as-of-7-12-22.jpg)

## Constitutional and statutory authority

- **Constitutional Authority:** Montana Constitution Article VI Section 12
- **Statutory Authority:** House Bill 43 passed by the 2015 Legislature, gave the Governor authority to review the Board's clemency recommendations and make a final, binding determination.

## Eligibility Criteria

A person convicted of a crime need not exhaust judicial or administrative remedies before filing an application for clemency, except that an application may not be filed with respect to a sentence of death while an automatic review proceeding is pending before the Montana supreme court under 46-18-307 through 46-18-310. The board shall consider cases of executive clemency only upon application. All applications for executive clemency must be made to the board. An application for executive clemency in capital cases may be filed with the board no later than 10 days after the district court sets a date of execution. Applications may be filed only by the person convicted of the crime, by the person's attorney acting on the person's behalf and with the person's consent, or by a court-appointed next friend, guardian, or conservator acting on the person's behalf. (See House Bill No. 43).

## Application Process

BOPP assigns clemency application to case leader. BOPP panels holds an internal hearing. Here, the BOPP can either recommend clemency or not. If no, no public hearing is held and the recommendation along with the application materials are sent to the Governor's office. A sufficient cause for clemency appears to conduct a public hearing where there is required notice in the newspaper and to interested parties. At the public hearing, panelists, the applicant, and proponents/opponents may attend. The BOPP's recommendation and application materials are sent to the Governor's office. The Governor's Office then goes through its review process. From here, the Governor can choose to deny the application, order BOPP to hold a public hearing or investigate further, or the Governor may grant the application. If denied, the applicant may not reapply unless there are changed personal circumstances.

### APPLICATION LINKS

- [bopp.mt.gov/\\_docs/about/Executive-Clemency-Application-7-2014.pdf](http://bopp.mt.gov/_docs/about/Executive-Clemency-Application-7-2014.pdf)