

Legislative Regulation Review Committee

2006-042a

Connecticut Board of Pardons & Paroles

ADMINISTRATIVE PARDONS PROCESS

STATE OF CONNECTICUT
REGULATION
OF

Board of Pardons and Paroles

NAME OF AGENCY

Concerning

Administrative Pardons Process

SUBJECT MATTER OF REGULATION

The Regulations of Connecticut State Agencies are amended by adding Sections 54-124a(j)(2)-1 to 54-124a(j)(2)-8, inclusive, as follows:

(NEW) Section 1. Section 54-124a(j)(2)-1. Definitions. As used in Sections 54-124a(j)(2)-1 to 54-124a(j)(2)-8, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Administrative Pardon Docket" means a list of pardon applications that will be reviewed for a pardon by a Panel of the Board of Pardons and Paroles without the petitioner being present;
- (2) "Administrative Pardon Process" means a process by which a pardon, conditioned or absolute, may be granted without a hearing to a person convicted of a crime after consideration of written materials submitted to the Board of Pardons and Paroles for consideration in accordance with sections 54-124a(j)(2)-1 to 54-124a(j)(2)-8, inclusive, of the Regulations of Connecticut State Agencies;
- (3) "Board" means the Board of Pardons and Paroles or a panel thereof;
- (4) "Chairperson" means the Chairperson of the Board of Pardons and Paroles;
- (5) "Incarceration" means the period of time an individual is confined in a correctional institution, under Department of Correction community supervision, or under parole supervision.
- (6) "Pardon" means the conditional or absolute release from the legal penalties resulting from the conviction of a crime;
- (7) "Victim" means an individual who suffers direct or threatened physical, emotional, or financial harm as a result of a crime and includes immediate family members of a minor, incompetent individual or homicide victim and a person designated by a homicide victim in accordance with section 1-56r.

(NEW) Section 2. Section 54-124a(j)(2)-2. Employees of the Board of Pardons and Paroles shall review all applications received for a pardon, and identify petitioners that meet the criteria defined in Section 54-124a(j)(2)-4 for pardon consideration by an administrative pardon process.

(NEW) Section 3. Section 54-124a(j)(2)-3. Prior to the scheduled pardon hearing, the Board shall meet and review all applications identified by the criteria set forth in section 54-124a(j)(2)-2 for pardon consideration by an administrative pardon process. At least two members of a panel of the Board of Pardons must approve an application being placed on the administrative pardon docket for further consideration. Pardon applications that have been placed on the administrative pardon docket will not be scheduled for a hearing unless the Board determines to consider the applications on the regular pardon docket as defined in section 54-124a(j)(2)-5 or the victim or the Office of the State's Attorney objects as defined in section 54-124a(j)(2)-8.

(NEW) Section 4. Section 54-124a(j)(2)-4. The Board shall consider and may grant a pardon pursuant to an application that was placed on the administrative docket, without a hearing,

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provided that a victim of the crime or the Office of the State's Attorney has not requested a hearing and:

(1) The conduct for which the applicant was convicted was a misdemeanor and no longer constitutes a crime;

(2) Such applicant was convicted of a misdemeanor, under twenty-one years of age at the time of conviction, and has not been convicted of a crime during the five years preceding the date on which the administrative pardon is granted;

(3) Such misdemeanor conviction occurred prior to the effective date of the establishment of one of the following diversionary programs for which the applicant would have been eligible had such program existed at the time of conviction, provided the chairperson determines the applicant would likely have been granted entry into such program:

(A) Suspended Prosecution or Conviction and Probation and Court-Ordered treatment for drug or alcohol dependency. Sections 17a-692 to 17a-701, inclusive, of the Connecticut General Statutes (formerly sections 19a-127a to 19a-127j, inclusive, of the Connecticut General Statutes), effective January 1, 1990;

(B) Pretrial Family Violence Education Program. Section 46b-38c of the Connecticut General Statutes, effective October 1, 1986;

(C) Alternate Incarceration Program. Section 53a-39a of the Connecticut General Statutes, effective, July 5, 1989;

(D) Community Service Labor Program. Section 53a-39c of the Connecticut General Statutes, effective July 1, 1990;

(E) Accelerated Pretrial Rehabilitation. Section 54-56e of the Connecticut General Statutes (Formerly Section 54-76p of the Connecticut General Statutes), effective June 12, 1973;

(F) Pretrial Alcohol Education Program. Section 54-56g of the Connecticut General Statutes, effective October 1, 1981;

(G) Pretrial Drug Education Program. Section 54-56i of the Connecticut General Statutes, effective January 1, 1998;

(H) Pretrial School Violence Prevention Program. Section 54-56j of the Connecticut General Statutes, effective January 1, 2000; or

(4) Such applicant was convicted of a violation of any of the following crimes, and such applicant has not been convicted of a crime during the five years preceding the date on which the administrative pardon is granted, provided such date is at least ten years after the date of conviction or release from incarceration, whichever is later. :

(a) Section 21a-277 of the Connecticut General Statutes (Formerly Section 19-480 of the Connecticut General Statutes);

(b) Section 21a-278 of the Connecticut General Statutes (Formerly Section 19-480a of the Connecticut General Statutes);

(c) Section 21a-279 of the Connecticut General Statutes.

(NEW) Section 5. Section 54-124a(j)(2)-5. The Board shall have the discretion to move any application that was placed on the administrative pardon docket to the regular pardon docket and require a full hearing.

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(NEW) Section 6. Section 54-124a(j)(2)-6. The Board shall notify the Office of the State's Attorney that prosecuted the crime that is the subject of a pardon application that has been placed on the administrative pardon docket, and shall include notice of a comment period of not less than thirty days prior to the date that the application will be considered pursuant to the administrative pardon process.

(NEW) Section 7. Section 54-124a(j)(2)-7. The Board shall attempt to identify and notify the victim of the crime that is the subject of a pardon application that has been placed on the administrative pardon docket by contacting the Office of Victim Services and the Department of Correction's Victim Service Unit. The Board shall include notice of a comment period of not less than thirty days prior to the date that the application will be considered pursuant to the administrative pardon process.

(NEW) Section 8. Section 54-124a(j)(2)-8. If the Board is notified of a request for the opportunity to be heard personally by the victim or the Office of the State's Attorney within the thirty-day comment period required in section 54-124a(j)(2)-6 through 54-124a(j)(2)-7, inclusive of the Regulations of Connecticut State Agencies, the application shall be ineligible for consideration by an administrative pardon process and the Board shall reassign the application to the regular pardons docket. The Board shall notify the applicant, the Office of the State's Attorney, and the victim of the hearing date.

STATEMENT OF PURPOSE: To provide for consideration of certain pardon applications without a hearing.

CERTIFICATION
R-39 REV 1-77

Be it known that the foregoing:

Regulations Emergency Regulations

Are:

Adopted Amended as hereinbefore stated Repealed

By the aforesaid agency pursuant to:

Section _____ of the General Statutes.
 Section 54-124a of the General Statutes, as amended by 2005 Public Acts No. 05-84
 Public Act No. _____ of the _____ Public Acts

After publication in the Connecticut Law Journal on April 08, 2008 of the notice of the proposal to:

Adopt Amend Repeal such regulations.
(If applicable) And the holding of an advertised public hearing on May 21, 2008.

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of State.
 (OR)
 The _____ day of _____, 200_____

In Witness Whereof:	DATE: 7/16/08	SIGNED (Head of Board, Agency or Commission) <i>Robert Fan</i>	OFFICIAL TITLE, DULY AUTHORIZED Chair, Board of Pardons and Paroles
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, of the General Statutes		SIGNED <i>William B. Rik</i> 7/24/08	OFFICIAL TITLE, DULY AUTHORIZED Associate Attorney General

Approved. Disapproved. Disapproved in part Rejected without prejudice.
(Indicate Section Numbers disapproved only)

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended of the General Statutes	Date:	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE:	SIGNED	BY:
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INSTRUCTIONS

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- Original and eighteen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
- Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters, deleted language in brackets. Section 4-170 of the General Statutes.