



STATE OF CONNECTICUT
DEPARTMENT OF CORRECTION
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Legal Affairs Unit
July 19, 2016

VIA ELECTRONIC MAIL

Ms. Kirstin L. Breiner
Committee Administrator
Legislative Regulation Review Committee
State Capitol Building, Room 011
Hartford, CT 06106

RE: Expedited Pardons Review, Regulation No. 2016-015

Dear Ms. Breiner:

The Board of Pardons and Paroles herewith submits the accompanying substitute pages for the above referenced regulatory proposal. The substitute pages are being submitted for consideration by the Regulations Review Committee at its July meeting and address both substantive issues raised and necessary technical changes pursuant to the communication of the Regulation Review Committee as communicated by Angela Rehm and Heather Bannister of the Legislative Commissioner's Office, dated July 14, 2016.

These substantive revisions are as follows:

- 1) The statement of purpose has been added to the proposed regulation and reads:
Statement of Purpose: This regulation is being promulgated in accordance with Legislative direction as set forth in Conn. Gen. Stat. 54-124a. It will provide non-violent offenders with a simplified and expedited pardons process if they meet certain criteria laid out in the regulations, such as the absence of any objection from the victim(s) of the crime, the completion of a criminal sentence and other criminal sanctions, and an appropriate length of time having passed since the date of the conviction.
- 2) The terms utilized in the proposed regulation have been made consistent with the definitions in section 54-124a(j)(2)-1a as follows:
 - a. In subsection 1a(2) reference to the term "or a panel thereof" has been removed;
 - b. Language has been added to subsection 1a(4) to clarify who is conducting the review of the application, to clarify that the application is the written material under consideration and to remove a redundant reference to subsection 1a(8) of the regulation.
- 3) Subsection 54-124a(j)(2)-1a(8) was rewritten to eliminate subdivision (A) as a redundant reference and the correction was made to the statutory reference of 53a-59a.

- 4) The language in subdivision (b) of 54-124a(j)(2)-6a has been deleted in order to clarify the applicability of the expedited pardon and the result of the victim objection.
- 5) Section 54-124a(j)(2)-5a has been modified to clarify that if an application fails to get the requisite two votes that the application may be denied or it may be scheduled for a full pardon hearing.

In addition, technical changes have been made as outlined below:

1. On page 1, in the first sentence of section 54-124a(j)(2)-1a, "sections 54-124a(j)(2)-1a to 54-124a(j)(2)-7a," should be "this section and sections 54-124a(j)(2)-2a to 54-124a(j)(2)-7a", for proper form.

2. On page 1, in section 54-124a(j)(2)-1a(4), "defined in subsection (8) of this section," should be deleted, for proper form, and, in the same section, "sections 54-124a(j)(2)-1a to 54-124a(j)(2)-7a," should be "sections 54-124a(j)(2)-2a to 54-124a(j)(2)-7a," for accuracy and proper form.

3. On page 1, in section 54-124a(j)(2)-2a, "54-124(j)(2)-6a" should be "54-124a(j)(2)-6a", for accuracy, and "as defined in subsection (8) of section 54-124(j)(2)-1a of the Regulations of State Agencies" should be deleted, for proper form.

4. On page 2, in section 54-124a(j)(2)-3a, "the Office of Victim Services, victim advocates assigned to the Board and/or the Department of Correction's Victim Service Unit" should be "the Office of Victim Services within the Judicial Department or Victim Services Unit within the Department of Correction," for proper form.

5. On page 2, in section 54-124a(j)(2)-5a, "all applications for expedited pardons that have" should be "each application for an expedited pardon that has", for consistency and proper form.

6. On page 2, in section 54-124a(j)(2)-6a(a)(1), ", as defined in subsection (8) of section 54-124a(j)(2)-1a of the Regulations of State Agencies" should be deleted, for proper form.

7. On page 2, in section 54-124a(j)(2)-6a(a)(2), "five (5) years" should be "five years" and "three (3) years" should be "three years", for proper form.

8. On page 2, in section 54-124a(j)(2)-6a(a)(3), "probation, parole, court-ordered fines, program(s) and community service, if applicable;" should be "probation or parole, payment of court-ordered fines and completion of any court-ordered program or community service, as applicable;", for clarity.

9. On page 2, in section 54-124a(j)(2)-6a(b), "Notwithstanding subdivisions (1) to (5), inclusive," should be "Notwithstanding the provisions of subsection (a) of this section" for accuracy, "the Office of Victim Services or the Victim Service Unit of the Department of Correction" should be "the Office of Victim Services within the Judicial Department or the

Victim Services Unit within the Department of Correction", for accuracy and consistency, and "section 54-124a(j)(2)-(3) above," should be "section 54-124a(j)(2)-3a of the Regulations of Connecticut State Agencies", for accuracy and proper form.

10. On page 3, in section 54-124a(j)(2)-7a, "victim(s) statement," should be "victim statements", for proper form.

These changes have been made and are reflected in the accompanying substitute page. Should further changes be required please do not hesitate to contact me by telephone.

Thank you for your attention to this matter.

Sincerely,

Nicole Anker
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State of Connecticut
Regulation of
Board of Pardons and Paroles
Concerning
Expedited Pardons Review

The Regulations of Connecticut State Agencies are amended by adding sections 54-124a(j)(2)-1a to 54-124a(j)(2)-7a, inclusive, as follows:

(NEW) Sec. 54-124a(j)(2)-1a. Definitions.

As used in this section and sections 54-124a(j)(2)-1a to 54-124a(j)(2)-7a, inclusive, of the Regulations of Connecticut State Agencies:

- (1) “Applicant” means a person convicted of an offense who completes an application for pardon consideration by the Board of Pardons and Paroles;
- (2) “Board” means the Board of Pardons and Paroles;
- (3) “Chairperson” means the Chairperson of the Board of Pardons and Paroles;
- (4) “Expedited pardon” means a pardon application identified by an employee of the Board as meeting the criteria described in section 54-124(j)(2)-6a of the Regulations of Connecticut State Agencies that will be reviewed by a panel of the Board of Pardons and Paroles and which may be granted without a hearing to a person convicted of an offense other than a violent offense, after the consideration of the application submitted to the Board of Pardons and Paroles in accordance with sections 54-124a(j)(2)-2a to 54-124a(j)(2)-7a, inclusive, of the Regulations of Connecticut State Agencies;
- (5) “Incarceration” means the period of time an individual is confined in a correctional institution, under Department of Correction supervision, or under parole supervision;
- (6) “Pardon” means the conditional or absolute release from the legal penalties resulting from the conviction of an offense;
- (7) “Victim” means “victim of crime” or “crime victim” as provided in section 1-1k of the Connecticut General Statutes; and
- (8) “Violent offense” means any offense (A) for which an individual is convicted and which causes such individual’s eligibility for parole release to be subject to the provisions of section 54-125a(b) of the Connecticut General Statutes (B) that results in a conviction for a violation of section 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57, 53a-58, 53a-59, 53a-59a, 53a-59b, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-64aa, 53a-64bb, 53a-70, 53a-70b, 53a-72b, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-101, 53a-102, 53a-102a, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135, 53a-136, 53a-167c, 53a-179b, 53a-179c, 53a-181c or 53a-321 of the Connecticut General Statutes, (C) for which an individual is convicted and which causes such individual to serve at least eighty-five per cent of such individual’s sentence pursuant to policy established by board, or (D) for which an individual is convicted and is otherwise prohibited from being granted parole.

(NEW) Sec. 54-124a(j)(2)-2a. Review of applications received.

An employee of the Board shall review each application received for pardon consideration, and identify applications eligible for an expedited pardon that meet the criteria described in section 54-124a(j)(2)-6a of the Regulations of Connecticut State Agencies. Applicants who were convicted of violent offenses shall not be eligible for an expedited pardon.

(NEW) Sec. 54-124a(j)(2)-3a. Attempt to identify and notify victim of an offense.

After applicants who are eligible for an expedited pardon have been identified pursuant to section 54-124a(j)(2)-2a of the Regulations of Connecticut State Agencies, the Office of Victim Services within the Judicial Department or Victim Services Unit within the Department of Correction shall attempt to identify and notify any victim of the offense that is the subject of a pardon application deemed eligible for an expedited pardon.

(NEW) Sec. 54-124a(j)(2)-4a. Notification to Board by victim to be heard personally.

Pursuant to section 54-228 of the Connecticut General Statutes, if a victim requests the opportunity to be heard personally prior to the Board taking final action on the application, the application shall be ineligible for an expedited pardon and the application shall be scheduled for a full pardon hearing. The Board shall notify the applicant and the victim of the hearing date.

(NEW) Sec. 54-124a(j)(2)-5a. Board review of expedited pardon applications.

A panel consisting of three members of the Board shall meet to review each application for an expedited pardon that has been identified pursuant to section 54-124a(j)(2)-2a of the Regulations of Connecticut State Agencies. For an application for an expedited pardon to be approved, at least two of the three members of the panel shall be required to vote for such approval. Should an application fail to receive the two votes required for approval, the pardon application may be denied or scheduled for a full pardon hearing.

(NEW) Sec. 54-124a(j)(2)-6a. Grant of expedited pardon without hearing.

(a) The Board may grant an expedited pardon to an applicant without a hearing, provided that:

- (1) The offense is not a violent offense;
- (2) It has been at least five years from the date of conviction for a felony and at least three years from the date of conviction for a misdemeanor, pursuant to section 54-130a of the Connecticut General Statutes;
- (3) The applicant's service of any sentence has been completed, including but not limited to any period of imprisonment, probation or parole, payment of court-ordered fines and completion of any court-ordered program or community service, as applicable;
- (4) The applicant has not been convicted of any other offense other than the offenses included in the application; and
- (5) The applicant has no pending criminal charges or open criminal cases in Connecticut or any other jurisdiction.

(NEW) Sec. 54-124a(j)(2)-7a. Discretion of Board regarding expedited pardons.

The Board shall have the discretion to require an application eligible for an expedited pardon to receive a full hearing. In determining whether an application shall be scheduled for a full hearing, the Board may consider the underlying act or acts constituting the offense or any offense for which the applicant has served a sentence of imprisonment or any other relevant information that demonstrates a tendency toward the use, attempted use or threatened use of physical force against another person. Information may include, but not be limited to, presentence reports, criminal records check, sentencing dockets, Criminal Justice Information System information, police reports, out of state criminal records, parole and probation reports, victim statements, witness statements, and the applicant's prior incarceration history.

Statement of Purpose: This regulation is being promulgated in accordance with Legislative direction as set forth in Conn. Gen. Stat. 54-124a. It will provide non-violent offenders with a simplified and expedited pardons process if they meet certain criteria laid out in the regulations, such as the absence of any objection from the victim(s) of the crime, the completion of a criminal sentence and other criminal sanctions, and an appropriate length of time having passed since the date of the conviction.