

NORTH CAROLINA PRISONER LEGAL SERVICES, INC.
INFORMATION ABOUT THE COMMUTATION OF SENTENCES
(EXECUTIVE CLEMENCY)

General Information & Instructions

The Constitution of North Carolina sets out the powers and duties of the Governor, among which is “clemency.”

(6) Clemency. The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

The Constitution of North Carolina, Article III, Sec. 5. Duties of Governor, Paragraph (6).

A commutation is the change of a penalty or sentence to a less severe one. The effect of a commutation is to make a person eligible for parole or release sooner than he would have been, had he served the term of imprisonment imposed by the court. Sometimes a commutation has made the inmate immediately eligible for parole or release. (Of course, in such cases, the Parole Commission still has the power to grant or deny parole). In addition, the general rule is, if the applicant is already eligible for parole or will become eligible for parole or release within one year, the request for a commutation will usually be denied.

Before an application for commutation will be considered, the applicant’s conviction must be **final** (meaning that there is no pending appeal). Neither will the Governor’s Clemency Office consider an application for commutation if there is pending a motion for appropriate relief or a petition for habeas corpus. If you have filed such pleadings, or if you are considering such a course of action, you should delay filing an application for commutation until there has been a final decision.

In capital cases involving the death penalty, the Governor defers consideration of a request for a commutation until the Attorney General’s Office advises that all judicial proceedings have been substantially completed and no other legal avenues are available to stop the execution.

To apply for a commutation, an applicant must provide all **certified** court documents, including Indictments, Judgment and Commitment Orders including Judgment and Commitment Upon Revocation of Probation Order with the accompanying violation report, Plea Agreement (if you pled guilty), and all other court documents that are needed to fully understand the case. Those documents can be obtained from the office of the Clerk of Superior Court in the county where the conviction(s) occurred. Applicants must also send a letter that explains the reasons they believe they deserve a commutation. A complete listing of all the information that may be helpful follows.

Additional Suggestions: If the case has been appealed, you may include a copy of the opinion from the appellate court. If a motion for appropriate relief or a petition for habeas corpus was filed and denied, it may be helpful to provide a copy of the court's order in which relief was denied. These court papers do not have to be certified.

The following information may accompany an application for commutation:

- (1) Applicant's age (date of birth) and any alias names used
- (2) Applicant's background, including:
 - family relationships
 - applicant's education
 - military service
 - employment history
 - accomplishments and achievements
- (3) Information about applicant's crime:
 - certified** copies of all indictments, plea agreements and the judgment and commitment order
 - a brief description of offense(s)
- (4) Relationship of applicant to victim (if any)
- (5) Co-defendants' full names and status
- (6) Status of restitution ordered by sentencing court
- (7) Applicant's current mental health status (if applicant has a history of mental illness, note diagnosis, treatment, and prospects of stability in the future)
- (8) Psychological information about applicant pre-dating the offense
- (9) Applicant's substance abuse history

- (10) Applicant's plan for re-integration into society such as: where applicant will live, and with whom; employment prospects; description of support network (including family, friends, clergy, and neighbors)
- (11) Applicant's program involvement (for example, Work Release, DART, or SOAR. Note successful completion of programs.)
- (12) Recommendations and/or protests of the public, Division of Prisons personnel, district attorneys, law enforcement officers, victim(s), and other interested parties

Be absolutely sure that you provide truthful information. The falsification of any information will be grounds for denial of your request.

A completed commutation request should be mailed to:

Governor's Clemency Office
4294 Mail Service Center
Raleigh, NC 27699-4294

Procedures for the Review of Applications for Commutation

When a request for commutation is received, the Governor's Clemency Office sends out a letter acknowledging receipt. You will be notified if any additional information is needed.

Requests for commutation are reviewed initially by the Governor's Clemency Office. You should know that when the Governor's Clemency Office reviews your application, it will obtain information about (but not limited to) your crime(s), criminal record, prison record (including disciplinary infractions, parole considerations, custody level while incarcerated, participation in available programs), basis for your request, and the date when you become eligible for parole or entitled to release. If the Governor's Clemency Office determines that more factual information is needed, the Division of Community Corrections with the Department of Correction may be asked to provide assistance.

The review of a commutation request and the decision by the Governor usually takes several months. You will be notified of the decision, in writing. If a request is denied, the applicant can normally reapply three years after the date of the denial.