

Confidential Legal Citations

§ 40-28-119. Parolees; records

- (a) The board shall cause to be kept records which may include social, physical, mental, psychiatric and criminal information for every inmate considered for or released.
- (b) Deleted by 2012 Pub.Acts, c. 727, § 26, eff. July 1, 2012.
- (c) The board may make rules, as it deems proper, as to the privacy of the record and of the records of its employment bureau, and their use by others than the board and its staff.

§ 40-28-505. Notice; hearings; decisions; remedies

- (h)(1) Any identifying information concerning a crime victim or a crime victim's representative who has been notified or requested that notification be provided to the victim or the victim's representative pursuant to this section shall be confidential.
- (2) For purposes of subdivision (h)(1), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.

Administrative Rules and Regulations of the TN Board of Parole: RULE 11-1-1-.15 CONFIDENTIALITY OF RECORDS.

(1) Confidential Information.

(a) The following information may be contained in the Board's file and is considered confidential by the Board and will not be released unless listed as an exception under rule 1100-01-01-.15(3):

1. Psychological evaluations provided, however, that such may be released to mental health officials who are treating the offender if a release of information form signed by the offender is presented with the request.
2. Offense Report.
3. Medical Records.
4. Contents of probation and parole staff chronological records, contact notes.
5. Probation/Parole Officers' statements accompanying violation reports
6. Written clemency recommendations to the Governor.
7. Statements in opposition of an offender by victims, families of victims, victims' representatives, families of inmates, private citizens who request confidentiality, and public officials who request confidentiality.
8. Victim impact statements.
9. Internal Affairs investigative reports.
10. Any reports or information generated by other agencies.
11. Other information, the release of which the Board specifically finds would be a serious safety risk to the public, staff, parolee or inmate.

(2) Information Available for Release.

(a) The following information may be released:

1. hearing and decision-making policy and procedures;
2. whether an inmate is being considered for parole or clemency;
3. whether parole or clemency has been granted or denied;
4. effective date for parole;
5. statements in support of a parole;
6. clemency applications and supporting documentation;
7. date, time, and location of hearings;
8. parole certificates and determinate release certificates;
9. reasons for the Board decisions listed on the Board Action Sheet;
10. residential and employment records of offenders;

(b) Requests for information from field supervision files shall be directed to the District Director or his or her designee. The District Director or his or her designee will review the records and release information available under rule 1100-01-01-.15(2)(a).

(3) Upon official request, law enforcement, child support officials, or other governmental entities shall be provided information as necessary to assist in their investigations, in their official capacity. Upon verification of the identity of the requesting official the following information may be released:

- (a) offender's aliases;
- (b) offender's M.O. (modus operandi or mode of operation);
- (c) offender's address;
- (d) offender's place of employment;
- (e) offender's photographs and fingerprints;
- (f) offender's social security number;
- (g) offender's telephone number;
- (h) offense reports;
- (i) whether a Board of Probation and Parole warrant has been issued and whether an offender has been arrested on a Board of Probation and Parole warrant;
- (j) violation reports;
- (k) information on assets of persons currently or previously on parole who owe court fines.

(4) The Board shall not release employee personal information such as social security numbers, home addresses, or telephone numbers.

Legal Citation

§ 40-27-101. Governor; powers and duties

The governor has power to grant reprieves, commutations and pardons in all criminal cases after conviction, except impeachment, subject to the regulations provided in this chapter.

§ 40-27-102. Warrants; discretion

The governor may grant pardons upon such conditions and with such restrictions and limitations as the governor may deem proper, and may issue warrants to all proper officers to carry into effect a conditional pardon.

§ 40-27-103. Warrants; return

The governor's warrant should be returned by the officer after its execution, with the officer's endorsement of the action, to the secretary of state, to be filed by the secretary of state with the other papers.

§ 40-27-104. Term of imprisonment; remission

The governor has the discretion to remit a portion of the imprisonment of a convict in the penitentiary upon the written recommendation of the board of parole.

§ 40-27-105. Capital punishment; commutation; application for pardon

Upon application for a pardon by a person sentenced to capital punishment, if the governor is of opinion that the facts and circumstances adduced are not sufficient to warrant a total pardon, the governor may commute the punishment of death to imprisonment for life in the penitentiary.

§ 40-27-106. Capital punishment; commutation; certificate of supreme court

The governor may, likewise, commute the punishment from death to imprisonment for life, upon the certificate of the supreme court, entered on the minutes of the court, that in its opinion, there were extenuating circumstances attending the case, and that the punishment ought to be commuted.

§ 40-27-107. Records

The governor shall cause to be entered, in a book kept for that purpose, any reasons for granting pardons or commuting punishment, and preserve on file all documents on which the governor acted, and submit the same to the general assembly when requested.

§ 40-27-108. Civil rights; restoration; manslaughter

Any person convicted of the offense of manslaughter and pardoned by the governor is thereby restored to all the rights of citizenship to which the person was entitled previous to conviction.

§ 40-27-109. Exoneration

(a) After consideration of the facts, circumstances and any newly discovered evidence in a particular case, the governor may grant exoneration to any person whom the governor finds did not commit the crime for which the person was convicted. No person may apply for nor may the governor grant exoneration until the person has exhausted all possible state judicial remedies.

(b) Exoneration granted pursuant to subsection (a) shall as a matter of law be unconditional, shall without application having to be made therefor expunge all records of the person's arrest, indictment and conviction, and shall automatically restore all rights of citizenship to the person.

(c)(1) The governor has the authority to review and reconsider any pardon the governor has previously granted for the purpose of determining whether the recipient of the pardon qualifies for and merits the granting of exoneration in lieu of a pardon. If the governor so determines, the governor shall have the authority to convert any pardon previously granted into exoneration as defined by this section.

(2) Nothing in this section shall be construed as preventing the governor from granting exoneration to a person who applied for a pardon if the person qualifies under subsection (a) and if the governor determines the person merits exoneration.

§ 40-27-110. Victims of Crime Executive Clemency Notification Act

(a) This section shall be known and may be cited as the "Victims of Crime Executive Clemency Notification Act."

(b) Prior to any reprieve, commutation, pardon, exoneration, or any other form of executive clemency being made public, the governor shall notify or cause to be notified the attorney general and reporter and the district attorney general of the judicial district in which the conviction occurred of the impending clemency action.

(c)(1) Prior to notice of the clemency action being made public, the district attorney general, through the victim-witness coordinator, shall notify the victim or victims of the offense for which the person is receiving clemency, or the victim's representative, of the impending grant of clemency.

(2) If notice is required by this section, the district attorney general, through the victim-witness coordinator, shall contact the victim or victim's representative by telephone, electronic mail, facsimile or by other means intended to ensure that the victim receives immediate notification; provided, that the victim or victim's representative has provided the district attorney general's office with contact information necessary to accomplish such immediate notification.

§ 40-28-106. Board; powers and duties

(c) The board shall also have the powers and perform the duties when requested by the governor of collecting the records, making investigations, and reporting to the governor the facts, circumstances, criminal records, and the social, physical, mental and psychiatric conditions and histories of prisoners under consideration by the governor for pardon or commutation of sentence.

§ 40-28-104. Board; powers and duties; executive director

(10) The duty, upon the request of the governor, to consider and to make nonbinding recommendations concerning all requests for exonerations, pardons, reprieves or commutations. The board shall have discretion to make either favorable or unfavorable recommendations based upon its application of guidelines and criteria adopted by the governor;

§ 40-28-114. Prisoners; records

As each prisoner sentenced is received at a classification center within the department of correction, it will further be the duty of the probation and parole officer of the district from which the prisoner was sent to cause to be obtained and forwarded to the board a summary from the trial judge and the district attorney general containing:

- (1) The facts as they developed at the trial;
- (2) The nature of the prisoner's conviction;
- (3) The court in which the prisoner was sentenced;
- (4) The name of the trial judge; and
- (5) Copies of other probation reports as may have been made in order for the board to have the benefit of the reports when the prisoner becomes eligible for parole consideration or applies for executive clemency.

§ 40-28-126. Advice to governor

(a) It is the duty of the board to advise with and make recommendations to the governor with respect to pardons, exonerations and commutations. Any report received from the trial judge or district attorney general will be made a part of the file of the applicant.

(b) The board shall have the district attorney general and trial judge, in whose court the case was tried, notified of the hearing of applications for executive clemency.

§ 40-28-128. Construction of law; power of governor

Nothing in §§ 40-28-101--40-28-127 shall be construed in any way as intended to modify or abridge the pardoning power of the governor.