

## Types of Pardons in Virginia and Eligibility Information

When submitting a pardon petition of any type, there is no reliable method of predicting how long a pardon petition investigation will take to complete. The investigation process may take a year or longer.

The petition process does not include a hearing, meeting or conference with the petitioner or persons on the petitioner's behalf. All information to be considered must be submitted to the Secretary of the Commonwealth's office in writing.

If a petition is denied, the petitioner cannot appeal the decision, but the petitioner may file a new petition two years after the date of the denial letter.

### SIMPLE PARDON

A simple pardon is an act by the Governor on behalf of the Commonwealth where official forgiveness is granted for a crime for which a person has been convicted. The Virginia Governor's power of executive clemency only extends to Virginia convictions. The Office of the Governor has no jurisdiction over expungements, out-of-state convictions, or federal convictions.

Currently to petition for a simple pardon, you must be *free of all conditions set by the court on all convictions in all states followed by a waiting period of five years*. To calculate the eligibility date to petition for a simple pardon, find your conviction date; add any conditions of the court including all suspended time, supervised and unsupervised probation, and good time behavior on all convictions in all states then add 5 years.

To obtain a copy of your criminal record, contact the Virginia State Police – Criminal Records division. If a Virginia felony was involved, you **MUST** have been granted your Restoration of Rights before appealing for a simple pardon.

If a simple pardon is granted, a notation will be added to the criminal record showing the word "pardon" next to the conviction. **A simple pardon *does not* remove the conviction from a criminal record.** A simple pardon does not restore the right to possess a firearm. You must petition the appropriate Circuit Court pursuant to Va. Code §18.2-308.2.

### ABSOLUTE PARDON

An absolute pardon may be granted when the Governor is convinced that the petitioner is innocent of the charge for which he or she was convicted. *An individual is eligible to petition for an absolute pardon ONLY if he/she pled Not Guilty throughout the judicial process and exhausted all forms of judicial appeals and other remedies.* An absolute pardon is rarely granted.

In 2004, the Virginia General Assembly passed legislation giving individuals convicted of crime the opportunity to have the court itself consider claims of innocence, even after a conviction. If the court finds it made an erroneous conviction, the court then issues a Writ of Actual Innocence. (This legislation is in the Code of Virginia in Sections 19.2-327 through 19.2-327.13.) In most circumstances, this avenue for pardon must also be tried before appealing to the Governor. Writ of Actual Innocence paperwork should be filed with the Office of the Attorney General, not with the Office of the Secretary of the Commonwealth.

If all remedies have been exhausted as required by law, you may then submit a petition for an absolute pardon to the Governor, along with evidence that the court has rejected your claim under the new law above, or an explanation of the legal basis for why you believe the new law is not applicable to your situation.

### CONDITIONAL PARDON

A conditional pardon is an act by the Governor to modify or end a sentence imposed by the court. The Governor only grants a conditional pardon when there is substantial evidence of extraordinary circumstances to warrant it; such a pardon is not regarded as a substitute judgment for that of the convicting court. If you are a family member, you may file on behalf of a petitioner only with written consent from the petitioner.

If you have additional questions, please visit our website at [www.commonwealth.virginia.gov/judicial-system/](http://www.commonwealth.virginia.gov/judicial-system/) or contact our office by email at [pardons@governor.virginia.gov](mailto:pardons@governor.virginia.gov)

**To request a pardon, please return this completed form and any supporting documentation to:**

Pardons, Secretary of the Commonwealth  
PO Box 2454  
Richmond, VA 23218

