DOUGLAS A. DUCEY
GOVERNOR

DR. C.T. WRIGHT
CHAIRMAN

# ARIZONA BOARD OF EXECUTIVE CLEMENCY

## COMMUTATION OF SENTENCE APPLICATION

**(A.R.S. 31-402, 31-403, 31-411 AND A.R.S. 13-603(L)**

A commutation of sentence reduces a sentence, either totally or partially, that is then being served. It does not change the fact of conviction, imply innocence, or remove civil liabilities that apply to the convicted person as a result of the criminal conviction.

FORWARD THIS APPLICATION DIRECTLY TO: ARIZONA DEPARTMENT OF CORRECTIONS, TIME COMPUTATION UNIT, 1601 West Jefferson, Phoenix, Arizona 85007. Please list current offense(s) to be considered for Commutation of Sentence. Applicant must have served a minimum of two (2) years on his/her current offense(s) and is not within one (1) year of his/her parole eligibility or mandatory release date for sentences more than 3 years. Exceptions to this are special orders by the court (A.R.S. 13-603L), or imminent danger of death. The Board does not consider sentences of three years or less. **Future sentences (consecutive terms) will not be considered for reduction UNLESS the sentences are under the same criminal case number and the total sum of the future sentences equals 50 years or more.**

## APPLICATION FOR COMMUTATION OF SENTENCE

Please type or print legibly in ink the answers to the following questions. If the space is insufficient, please continue the answer on another sheet of paper and label the corresponding section that you are continuing. Do not modify the application as **only this application will be accepted**.

Each question must be answered fully and truthfully.

### SECTION 1: APPLICANT INFORMATION

| Last Name | First Name | Middle Name |
|---|---|---|
| | | |

ADC Number:

☐ Imminent Danger of Death: Check this box if you are applying for a Commutation of Sentence based on Imminent Danger of Death.

☐ A.R.S. 603L: Check this box if you applying under the provision whereby the sentencing Court has entered a special order allowing you to petition the Board for a commutation of sentence within 90 days of your commitment to the custody of the Department of Corrections.

***The Board of Executive Clemency will only consider those applications, under this provision, that are statutorily eligible and certified by the Department of Corrections. Confirmation of medical status from the Arizona Department of Corrections Health Services Unit must be attached to this application.**

**"IMMINENT DANGER OF DEATH"** means that an applicant has been examined by a medical doctor and that doctor has diagnosed the applicant as suffering from a medical condition which, in the doctor's professional medical opinion, will to a reasonable medical certainty result in the applicant's death within four (4) months. Imminent Danger of Death shall only apply for those applicants that are currently incarcerated."

| Date of Birth: | Place of Birth | Gender | ☐ Male<br>☐ Female |
|---|---|---|---|
| Facility & Unit Location: | | Classification: | |
| Do you have any detainer(s)? ☐ Yes ☐ No | | List Authority: (INS, County, City, State etc.) | |

## SECTION 2: SENTENCE(S) SEEKING COMMUTATION

List Each Sentence That You Are Requesting To Have Commuted

| Cause No./Count | Committing Offense (Do Not Use A.R.S. Statute) | Sentence Received | Exact Years and/or Months Request to be Reduced from Sentence |
|---|---|---|---|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |

## SECTION 3: FAMILY/SUPPORT INFORMATION

| | | | |
|---|---|---|---|
| Current Marital Status: | ☐ Single<br>☐ Married | ☐ Divorced<br>☐ Separated | ☐ Widow<br>☐ Widower |
| If released, how many children will reside with you under the age of eighteen (18)? | _____ | | |

**Please list any individual (s) that will support you in the community.**

| Name: | Age: | Relationship: |
|---|---|---|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |

## SECTION 4: COMMUTATION APPLICATION HISTORY

Have you applied for a Commutation in the past? ☐ Yes ☐ No

If yes, please state the month(s) and year(s) you applied:

What sentence(s) did you apply for:

1. _____

2. _____

3. _____

4. _____

| | |
|---|---|
| Was a commutation recommended to the Governor?<br>☐ Yes ☐ No | If yes, did you receive a decision?<br>☐ Yes ☐ No |
| If yes, what was the decision? | |

## SECTION 5: OFFENSE INFORMATION

1. **Describe in DETAIL your involvement in the offense. Who was involved in the crime (Co-Defendants, Victims etc). What were your actions/motives before and immediately after the crime. Be specific and describe your exact responsibility in the crime.** ***Please, no general statements.***

## SECTION 6: PURPOSE FOR COMMUTATION

**The Court sentenced you for the crime you committed. Why are you now seeking to reduce your sentence?**

**If any, what mitigating and/or aggravating factors were considered by the Court relating to the sentence(s) you are asking for commutation. In other words, what factors were presented to allow a lesser (mitigating) sentence or make it harsher (aggravating) than typically received (presumptive).**

| Sentence | Mitigating Factors | Aggravating Factors |
|---|---|---|
| | | |
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**If you agreed to a plea bargain, why are you now asking the Board to recommend to the Governor modify the agreement you made with the Court?**

| For all persons committing offenses on or after January 01, 1994, the Board will vote to recommend a reduction of sentence to the Governor only after finding by clear and convincing evidence that the sentence imposed is clearly excessive given the nature of the offense and the record of the offender and that there is a substantial probability that when released the offender will conform their conduct to the requirements of the law.<br><br>If your conviction meets these time frames, why is your sentence excessive? |
|---|
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| |

| Why should the Board believe that you will remain crime free if released earlier than your sentence end date? |
|---|
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| |

| Since your incarceration, what has been your most significant achievement? Why? |
|---|
| |
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| |

| What are the specific factors you would relay to the Governor to justify that you are deserving of a commutation of sentence? |
|---|
| 1. |
| 2. |
| 3. |
| 4. |
| 5. |

## SECTION 7: SUBSTANCE ABUSE AND TREATMENT INFORMATION

1. **Have you ever been addicted to or abused alcohol or drugs of any type?** ☐ Yes ☐ No

2. **Were drugs or alcohol involved in the offense that you seeking commutation?** ☐ Yes ☐ No

3. **Have you used drugs or alcohol during your incarceration?** ☐ Yes ☐ No

4. **Do you consider yourself in recovery now?** ☐ Yes ☐ No

   **If yes, please complete Question 4a.**

4a. **How long have you been in recovery and how do you maintain?**

5. **List any substance abuse programming and dates of attendance that you have completed while incarcerated on this sentence?**

| | PROGRAM NAME | DATE |
|---|---|---|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |

## SECTION 8: INMATE DISCIPLINE RECORD

List any and all disciplinary write-ups and outcomes you have received in the last five years since your incarceration on the conviction for which you are seeking clemency. Include all minors and majors.

| Discipline (Note if Major or Minor) | Explanation |
|---|---|
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## Section 9: POSITIVE ACCOMPLISHMENTS
### INMATE WORK HISTORY

1. What is your current work assignment and how long have you been in this assignment?

2. If you are not working, please explain.

### INMATE PROGRAMMING

1. List any and all inmate education classes and/or inmate programs you have completed since in the last 3 years.

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

| INMATE RELEASE PLAN |
| --- |
| 1. If the Board recommends a commutation of sentence to the Governor, what is your plan for release? |
| **RESIDENCE:** |
| |
| |
| |
| |
| **WORK:** |
| |
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| |
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| |

# COMMUTATION OF SENTENCE APPLICATION
# SIGNATURE PAGE

FORWARD THIS APPLICATION DIRECTLY TO: ARIZONA DEPARTMENT OF CORRECTIONS, TIME COMPUTATION UNIT, 1601 West Jefferson, Phoenix, Arizona 85007. Please list current offense(s) to be considered for Commutation of Sentence. Applicant must have served a minimum of two (2) years on his/her current offense(s) and is not within one (1) year of his/her parole eligibility or mandatory release date for sentences more than 3 years. Exceptions to this are special orders by the court (A.R.S. 13-603L) or imminent danger of death. Future sentences (consecutive terms) WILL NOT be considered for reduction UNLESS the sentences are under the same criminal case number and the total sum of the future sentences equals 50 years or more.

I completed this application with no assistance. ☐ **Yes** ☐ **No**

If you answered no, please provide the following information:

Name of individual/group that assisted you in completing this application:

_____

Relationship: _____

Reason for assistance: _____

_____

This is to certify that I have applied for a Governor's commutation of sentence with the Arizona Board of Executive Clemency and have completed this application fully, truthfully, and accurately. ***If I am filing under "imminent danger of death, I understand and agree that my medical records will become public record and discussed in open forum.**

_____

**Applicant Signature**

Dated this _____ day of _____, 20___

# The Arizona Board of Executive Clemency
# Commutation of Sentence - Frequently Asked Questions

If you or someone you know is applying for a commutation, it's important to understand what a commutation of sentence is, who is eligible to apply and what is the application process. A commutation is one of the three types of *clemency* hearings conducted by the Arizona's Board of Executive Clemency. The other two types of hearings are pardons and reprieves. Clemency is considered an act of mercy by the leader of the executive branch of government (Governor). In considering whether to recommend a commutation to the Governor, a Board member may base their decision on various factors such as compassion, authentic rehabilitation and sincere remorse, as well as statutory requirements. In certain cases, only statutory requirements may be considered. If a majority of the board approves a clemency request, its recommendation is sent to the governor. The Governor makes the final decision. In Arizona, the Governor cannot grant clemency without the Board's recommendation. The Board has no legal authority to grant a commutation; it can only make a recommendation to the Governor.

***What is a commutation of sentence?*** A commutation is a shortening of a sentence or set of consecutive sentences. For those committing offenses after January 01, 1994, Arizona law provides that the Arizona Board of Executive Clemency ***"may make recommendations to the governor for commutation of sentence after finding by clear and convincing evidence that the sentence imposed is clearly excessive given the nature of the offense and the record of the offender and that there is a substantial probability that when released the offender will conform the offender's conduct to the requirements of the law*** (A.R.S. 31-402)." If the majority of the Board votes favorably, then a recommendation for commutation is made to the Governor. The Board is under no statutory requirements as to reasons why it might recommend a commutation if the offense was committed prior to January 01, 1994. There is no appeal to a denial of a commutation of sentence at any stage of the process, and neither the Governor nor the Board is legally required to provide a reason for denial of a recommended commutation.

***Who is eligible for a commutation of sentence hearing?*** An Inmate is eligible to apply for commutation if:

a. the inmate has a sentence of more than three (3) years and has served at least two years of the sentence at the time of application, including jail credits applied to the sentence;
b. the sentencing judge issued a special order. Arizona Revised Statute 13-603(L) allows the court to issue a special order at time of sentencing only if it believes that a sentence is clearly excessive. The order will allow the person sentenced to petition the Board for a commutation of sentence with ninety days after they are committed to the Department of Corrections. The court will provide the Board in writing its specific reasons concluding that the sentence is excessive;
c. inmates who are considered terminally ill with less than four (4) months to live may also apply. Medical documentation from the Arizona Department of Corrections' designated physician must state the diagnosis and that the inmate has less than four (4) months to live; and/or
d. inmates facing imminent execution may receive a commutation hearing prior to the date of execution.

***Once an application is completed, what happens to it?*** Applications must be submitted through the Arizona Department of Corrections (ADC) and are then screened (except category "d") for eligibility by ADC's Time Computation Unit. If deemed eligible, it will be transferred to the Board of Executive Clemency and the Board's staff will compile the necessary information, schedule a hearing date and make required notifications based on statute, including to victim's or victim's family, the county attorney and the sentencing judge. Applications submitted under category "a" (listed above) will be first scheduled as a Phase I hearing. The other categories will automatically be scheduled as a Phase II hearing.

***Who is not eligible?*** Inmates will be determined ineligible if:

a. the inmate has not served at least two years of their sentence, including jail credits on the specific sentence included in the commutation application;
b. the inmate has a sentence of three years or less;
c. the inmate is within one year of earliest release eligibility at the time of application; and/or
d. they have been deemed ineligible based on statutory requirements imposed by the Arizona State Legislature.

***Why did ADC return my application?*** Applications are returned to the inmate if:

a. the responses on the application are not clear or complete;
b. the Board of Executive Clemency's ***official*** Commutation of Sentence Application was not used or the format was significantly altered, and/or
c. after review, it was determined that the inmate was ineligible to apply.

***What is a Phase I commutation hearing?*** The Phase I hearing is conducted by Board members where they will solely and thoroughly review and discuss the application and other documents. The Board will conduct the matter in an "Open Meeting" environment but **will not** conduct a call to the public. Members of the public, including attorneys, may attend and observe a Phase I hearing but will not be permitted to speak. Only the board members will discuss the application and make a determination of action by vote. During the Phase I hearing, members discuss the inmate's information provided in the application itself, sentencing documentation, Presentence Investigation Report, past criminal history, facts of the offense(s) presented to the court, plea agreement if applicable, institutional behavior record, and any other documents provided by officials and/or interested parties. It is the responsibility of the applicant to submit any and all programming, educational or other treatment documentation that he/she wishes to have considered by the Board. After carefully discussing the matter, the members will vote to determine if the application should be elevated to a Phase II hearing.

***What is a Phase II commutation hearing?*** If an inmate's commutation request is moved forward to Phase II, a new hearing date will be scheduled, usually within 60 days of Phase I, and all proper notifications will again be made to the statutorily required persons and/or parties. Members incorporate the same information or documents previously reviewed in Phase I but will focus their attention on direct communication with the inmate as well as testimony from those present and wishing to speak. After considering all the facts and testimony, the Board conducts a final vote and will encompass (if applicable) the criteria set forth in A.R.S. 31-402. If a recommendation is not made, the members may include the elements of A.R.S. 31-403 which allows for the Board to extend re-application times for serious offenses (A.R.S. 31-403 applies to offenses committed after January 01, 2006).

***What happens if the Board votes to recommend a commutation of sentence?*** If the Board recommends commutation, a letter will be drafted by one of the members and sent to the Governor along with all the documents reviewed by members. The letter will incorporate information about the crime, the Board's discussion, and the members' reasoning for the recommendation. All the documentation provided to the Board as well as the audio of the hearing will be transmitted with the letter. This should take place no later than 30 days from the hearing date. In the case of an Imminent Danger of Death applicant, a recommendation to the Governor will be transmitted within 7 days from the date of the hearing and vote of the Board.

***If recommended, when will I hear regarding the Governor's decision?*** Any recommendation for commutation that is made ***unanimously*** by the members present and voting, will be acted upon by the Governor within ninety days from the acknowledge date that the Governor receives the Board's recommendation. If not acted on within 90 days of date-stamped receipt by the Governor, and the recommendation was made as a result of a unanimous vote of Board members, the recommendation automatically becomes effective. For majority votes made by the Board, the Governor has no specific time frame within which to act.

***Can an inmate re-apply for a commutation of sentence if denied by the Board or Governor?*** Based upon applicable law and type of offense, some inmates may re-apply every three years and some may be restricted to a set number of years according to statute (A.R.S. 31-403) and, in some cases, the Board's determination if statutorily applicable.

***If you or someone you know is attending a hearing, what should you know?*** For those attending hearings, the following is important to remember:

a. The Board conducts its business in a professional environment. Therefore, the Chairperson asks that you present yourself in a respectful and courteous manner. Turn off all cellphones prior to entering the Board hearing room.
b. The Board asks that members of the public dress appropriately. Any item of clothing that displays offensive, vulgar, racist, sexist, gang-related, obscene language and/or graphics will not be permitted in the Boardroom. You might want to consider dressing as though you were attending a job interview or professional business meeting. However, suits and ties are not required, for example.
c. Sensitive information and material is by necessity openly discussed by the board, especially in instances where sexual or violent crimes are at issue; it may be inappropriate for young children to be present. It is important to remove children from the Boardroom if they are unable to remain quiet, as the hearing is being recorded on sensitive audio equipment.
d. Speakers are advised to prepare in advance and should base any claims on factual evidence. Use your time wisely. If there is a large group attending, it's advisable that speakers coordinate their presentations so that speakers do not repeat the same information multiple times. The Panel Chairperson may limit speaker time as well as ask to limit number of speakers.
e. If you are speaking on behalf of the commutation, it is advisable that you obtain a copy of the inmate's application, a presentence investigation report, or other relevant documents to thoroughly familiarize yourself with the information the applicant has provided to the Board as it relates to the specific facts of a case. You should be aware of the inmate's reasoning for the commutation request, his/her prison record, as well as the full extent and nature of their crime.
f. The Board does not schedule specific times for hearings and they vary widely in length depending upon the amount of documentation being discussed and/or the number of speakers

at a Phase II hearing. Some hearing types can take priority over others in the day's schedule. Please be prepared to wait. You can wait inside the Board hearing room while observing hearings or listen to hearings in the lobby waiting room while consuming a beverage or visiting with other persons. However, the security officer will ask you to keep noise at a minimum in the lobby waiting room in order to avoid disturbing the conduct of hearings inside the Board hearing room.

g. Members of the public may attend hearings via telephone connection. If you wish to teleconference, please contact the Board's main number (602-542-5656) prior to the scheduled date and provide the name of the inmate, YOUR name, number to reach you during the hearing and the relationship to inmate. On the day of the scheduled hearing, be sure to remain near the telephone throughout the day at the number you have provided, as the Board must proceed with the hearing even if you don't answer your telephone when called.
h. If you as a member of the public have documents that you wish the Board members to review, please provide at least 2 working days prior to the scheduled hearing date. Please do not provide documentation during the hearing. Inmates should submit all documentation they wish the Board to review on their case at least one (1) week prior to the scheduled hearing. The address for mailing documents is: Arizona Board of Executive Clemency, 1645 West Jefferson, Suite 101, Phoenix, Arizona 85007. Include your name and DOC # on all submitted documents.
i. The Board does not have provision to review documents other than those written in English.