



## **How to Prepare for Your Loved One's Commutation Hearing**

### **What is clemency?**

When an incarcerated person files a clemency petition, they are asking the Governor of Illinois to commute (i.e., change) their sentence, such as by reducing their sentence to time served. In most cases, clemency petitions do not challenge legal mistakes or other things that might have gone wrong at trial. Instead, clemency is based on principles of mercy. Most clemency petitions focus on an incarcerated person's remorse, rehabilitation, and plans for reentry.

### **Why are we having a hearing?**

When you file a clemency petition, you do not go to court, but you may have a hearing in front of the Prisoner Review Board (PRB), sometimes called "the parole board." By law, the PRB is responsible for reviewing clemency petitions and making a confidential non-binding recommendation to the Governor. The purpose of the hearing is to present more information about your loved one's case to the PRB before they make their recommendation to the Governor. The PRB members may have questions about the case. They will also take note if the person has family members and friends who have taken the time to show up in support of their loved one.

### **Will the PRB decide whether my loved one is going to get clemency?**

The Governor, not the PRB, makes the ultimate decision about whether your loved one will be granted clemency. Within 60 days of the hearing, the PRB will send their recommendation to the Governor. Remember that the PRB's recommendation is confidential, meaning that we will never know what they recommend. Also, their recommendation is non-binding, meaning that the Governor can agree or disagree with the PRB's recommendation. In Illinois, the Governor has sole power to decide whether to grant or deny clemency.

### **When and where will the hearing take place?**

Hearings are held four times a year, either in Chicago or in Springfield. The date, time, and exact location including the room number of your loved one's hearing will appear in

the docketing letter that your loved one or their attorney will receive within one or two months after filing the petition. Chicago hearings take place at the Thompson Center, located at 100 W. Randolph, in downtown Chicago.

The hearing time for all hearings will be 9am. Multiple cases will be scheduled for the same date and time as your loved one's hearing, and the cases can be called in *any order*. Be sure to arrive early and be prepared to stay all day. Typically, hearings are complete by sometime between 1pm and 3pm, but each day is different. If the hearing runs into the afternoon, the PRB will typically take a lunch break.

You should plan to arrive before 9am so that you have time to go through security and find the room. Security at the hearings will be similar to security when you go to a courthouse. You should bring a mask and dress conservatively (as you would for a job interview). You are allowed to bring your cell phone (but be sure to silence it). You may also want to bring a water bottle, snacks, and tissues.

### **What happens at the hearing?**

Between 3-8 members of the Prisoner Review Board (PRB) will be assigned to hear your loved one's case. One of the PRB members will be assigned to be in charge of the case. You might be able to guess who that person is because they will probably ask most of the questions. The PRB members are listed with their bio's on the PRB website: <https://www2.illinois.gov/sites/prb/Pages/prbbdmem.aspx>

The hearing room is a public space. When you enter the room, there will probably be many other people there who are attending for their own loved ones' cases. People who have been released but are seeking to expunge their records through clemency will also be present. Sometimes, victims' families or the news media are present.

When your loved one's case is called, all of your loved one's witnesses, including their attorney if you have one, will come to the front of the room and sit at the witnesses' table. If you have an attorney, the attorney will present your loved one's case. Then, your attorney might ask you or the other witnesses to tell the PRB members about your loved one.

In most cases, your loved one's attorney will not ask you to talk about what happened in the case. Usually, the attorney will ask you to talk about who your loved one is as a person, how much you've missed them during their incarceration, and how you will support them if they are granted clemency.

The PRB members will then ask questions about the case. They might ask a lot of questions or just a couple. If you have an attorney, always allow the attorney to answer questions unless they are specifically directed to you. The PRB can ask questions about anything. Be prepared to answer questions about the underlying crime of conviction, prior criminal history, gang involvement, disciplinary history in prison, and substance use

history and efforts at recovery. At the same time, be prepared to refocus on your main points, which in most cases are related to remorse and rehabilitation.

All together, you will have approximately 20 minutes for the hearing, and in most cases, the family members who are witnesses will only speak for a couple of minutes of that time. It will feel like it's not enough time to present everything that you want to say.

Many of the cases discussed at these hearings contain details about violent things that happened, including people being hurt and killed. Be prepared for this as best you can. You may decide not to bring young children to the hearing, or have someone available to take care of them outside of the hearing room (in the waiting area).

### **Is it even worth it for me to be there if I can't speak for very long or not at all?**

Definitely! The PRB really cares when family members of incarcerated people take the time to attend their loved ones hearings. The attorney is in charge of presenting the case, and it may feel frustrating that you cannot help explain what happened. As a family member, your role at the hearing is to show the PRB that your loved one has a family who loves them and is ready to support them if they are released. Your presence says a lot, even if you don't say a word!

### **Will the State's Attorney or victim's family appear?**

Possibly. In some cases, the State's Attorney will be present and will object to your loved one receiving clemency. They may say things about what they think your loved one did wrong in the past, and it can be really upsetting and hurtful to hear these things. Sometimes, what they say might be true, and other times it's not true. Be prepared for this and, if you have an attorney, let the attorney decide whether or not to respond.

The victim's family can also appear but in practice this happens in only rare cases. The victim's family can also file confidential letters objecting to clemency.

### **Will my loved one be there?**

No. Unfortunately, incarcerated people do not have a right to attend their own clemency hearing. Unlike in a court case, the PRB does not "writ" incarcerated people to appear in clemency cases. You may see people who are appearing on their own to expunge their records through the clemency process; these individuals are formerly (not currently) incarcerated.

### **What happens after the hearing?**

By law, the PRB has 60 days from the date of the hearing to send their confidential non-binding recommendation to the Governor's office. You will not be notified when this happens, but you can be sure that it always happens within 60 days of the hearing.

After that date, the Governor has as long as they want to make a decision. There's no rule or law that tells the Governor when they have to decide a clemency petition.

Sometimes it can feel like clemency cases have two phases: rushing to get the petition filed, and waiting to get an answer. When the hearing is over, you are officially in the second phase: the waiting game. The waiting period can in some ways be even harder than working on the case, because after the hearing, there's nothing left to do. During this time, you and your loved one should work to keep your spirits up and stay hopeful and patient. In some cases, you might wait a year for an answer, or longer, although this can vary a lot case to case and year to year. During this time, you will not receive any updates until the petition is granted or denied.

### **What happens if the petition is denied?**

There is no limit on the number of times a person can request clemency. However, after a clemency petition is denied, there is a one-year waiting period before you can file again. The time you were waiting is not a complete loss, however. Your loved one might have additional achievements and successes to show the PRB the next time you file. Never give up hope.

### **What happens if clemency is granted?**

If your loved one's clemency petition is granted, the Governor's office will notify the attorney or, if the person filed without an attorney, will notify them directly at the prison where they are incarcerated. When clemency is granted, the person is usually released the next day, although sometimes it can take a couple of days. Although it can be very difficult to plan for something that could happen out of the blue, you may want to have an idea of who would go to pick up your loved one from the prison if they are granted clemency.

Published on September 8, 2021