

Pardon Fundamentals for Paralegals: *State Pardons and Parole*

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State Pardons and Parole :

Clemency is defined as a disposition to be merciful and especially to moderate the severity of punishment due. The judge may accept a prisoner's pleas for clemency; an act or instance of leniency²⁶. (Merriam-Webster Dictionary) It can be a pardon, parole or probation. Parole is the early release of a prisoner who agrees to abide by certain conditions, originating from the French word "parole" ("speech, spoken words" but also "promise"). The term became associated during the Middle Ages with the release of prisoners who gave their word. (Black's Law Dictionary, 11th Edition, 2019.)

Each state has its own rules and regulations for a person to obtain a pardon, parole and probation. Most state requirements are very strict and must be adhered to by the rule of law. There are differences between probation, parole, and pardon, it is important to understand the unique definitions and roles of each term. First, probation and parole are much more similar to each other than a pardon is. Both probation and parole are used as an alternative to jail or prison time, pardons are given by higher government powers, mainly the chief executive, a Governor, in order to wipe an offender's record clean and free them from any remaining penalties. Though a pardon does have the power to free an offender from jail time, it may go a step further by clearing their name and criminal record, essentially freeing them from any mark of their crime in a particular state.

A pardon generally is an order of official forgiveness and is granted to those individuals who have maintained a good reputation in their community following the completion of their sentence(s). A

²⁶Clemency: a.: A disposition to be merciful and especially to moderate the severity of punishment due; b : an act or instance of leniency.
<https://www.merriam-webster.com/dictionary/clemency>. Accessed 12 Apr. 2021.

Pardon is an official statement attached to the criminal record that states, such as Georgia, that the State of Georgia has pardoned the crime. It does not expunge, remove or erase the crime from your record. It may serve as a means for a petitioner to advance in employment or education.²⁷

Restoration of Civil and Political Rights is different. This is an order restoring a person's civil rights which are lost in Georgia upon conviction. These include the right to run for and hold public office, to serve on a jury, and to serve as a Notary Public. The right to vote is automatically restored upon completion of your sentence(s) therefore you need not submit an application.²⁸

What is the difference between a restoration of rights and a pardon? Restoration of civil and political rights, if granted, will fully restore citizenship. It removes all civil disabilities and disqualifications imposed as a result of a conviction. These rights include the right to run for and hold public office, to serve on a jury, and to serve as a Notary Public. A Pardon is an act of official forgiveness and is granted only in exceptional cases. It may serve as a means for the petitioner to advance in employment or education. A pardon in most states, as in Georgia, unless it specifically states that, does not expunge (remove) an offense from your record.²⁹

Deciding if a person deserves clemency is not an easy or enviable task. To qualify for a Pardon for offenses, other than sex offenses, which require you to be listed on Georgia's Sex Offender Registry and treated differently, you must:

- You must have completed all sentence(s) at least five (5) years prior to applying.
- You must have lived a law-abiding life during the five (5) years prior to applying.

²⁷georgia.gov/parole-consideration/pardons-restoration-rights.

²⁸Ibid.

²⁹Ibid.

- You cannot have any pending charges.
- All fines and restitution must be paid in full.

To qualify for a Pardon for sex offenses which require you to be listed on Georgia's Sex Offender Registry:

- You must have completed all sentences for sex offenses requiring registration at least ten (10) years prior to applying.
- Within 90 days of application for the Pardon, you must have a psychosexual evaluation conducted. A list of approved sex offender treatment providers can be found at the following link: [Approved Sex Offender Treatment Providers](#). All costs are the responsibility of the applicant.
- Within 90 days of application for the Pardon, you must submit to a disclosure polygraph. A list of approved polygraph examiners can be found at the following link: [Polygraph Examiners](#). All costs are the responsibility of the applicant.
- You must provide a current copy of your most recent risk level evaluation as assigned by the Sexual Offender Registration Review Board (SORRB).
- You must have lived a law-abiding life during the ten (10) years prior to applying.
- You cannot have any pending charges.
- All fines and restitution must be paid in full.

The State of Georgia requires are cited as the requirements there are similar to most states in the U.S., if not more difficult to meet.³⁰

1. How Parole & Probation Differ:

(Probation is not a subject of this article but a preview is helpful.)

³⁰Ibid.

In many cases, probation is used prior to or instead of incarceration, which means the offender will simply spend time on probation right away, rather than going to jail at all. Though they may spend a short sentence (such as a day or two) in jail, their main punishment will be served through probation. When a person is on probation, they must adhere to certain provisions and terms or else they will have to face the alternative of incarceration. If you have been accused of violating your probation [click here](#) to learn more about how we can help.

These can include the following types of terms:

- A. Performing community service
- B. Enrolling in a rehabilitative program
- C. Paying restitution to a victim
- D. Taking frequent drug tests
- E. Checking in with a probation officer
- F. Maintaining a curfew
- G. Following instructions of the Probation Officer
- H. Not committing any other criminal action
- I. Payment of required fees and cost.

Probation is given directly by a court, while parole is given by the parole board after an offender has served a minimum sentence in jail. Parole is often given to individuals who have been on good behavior and are deemed safe to regenerate into society. The terms involved in parole can be very similar to the terms of probation. If a person on parole does not follow the specific terms, they could be required to go back to jail or prison. The point of both parole and probation are to help an offender break and avoid habits that could lead to future crimes.

2. What is the purpose of a state pardon?

State pardons are focused on helping individuals clear their names from their alleged crimes, not just rehabilitate or merge back into society. It is typically granted by higher government powers or local governor. These powers must decide whether or not they believe pardoning the offender will be in the public's best interests. A pardon will essentially wipe a criminal's record clean and cancel any further penalties they are facing, allowing them to immediately rejoin society with no criminal past. A Governor has the executive power, normally granted by statute or law, to grant a person a pardon. It is different from a Presidential pardon in that it will wipe an offender's record clean and free them from any remaining penalties in that particular state. A Presidential pardon may not do that; although there is some difference of opinion of some legal scholars.

Many Governors have chosen to give pardons for various reasons, such as political favors for family members, friends and associates, other than in order to wipe an offender's record clean and free them from any remaining penalties. Once granted, a pardon by a Governor (like one from a President) is absolute and, for the most part, cannot be undone by a successor.

The Value of Paralegals:

The value of paralegals within a law office cannot be underestimated; at least that is true in our office.. Paralegals are trained to assist attorneys in the delivery of legal services. They might work for law firms, corporations, the government, or in other practice environments, but always under the supervision of a lawyer, which is essential.

Paralegals can not give legal advice. A law firm needs each paralegal sign a document stating they shall not give a client any legal advice; and that shall keep all client matters confidential. It

should also be noted that not all paralegals assume the exact same duties. It depends largely on who they work for and what kind of legal services their employer provides.

Some of the basic duties of a paralegal are:

1. Arranging mediation or expert medical evaluations in family law divorce and custody matters
2. Contributing to trial preparation in litigation practices
3. Providing behind-the-scenes support in the courtroom at hearings and trials, or in arbitration, mediation, administrative proceedings, and closings
4. Drafting legal documents and pleadings, including deposition notices, subpoenas, motions, certifications, contracts, briefs, and complaints
5. Investigating the facts of a case by interviewing clients and witnesses and performing legal research into case law and precedents
6. Handling discovery, the exchange of certain information between opposing parties to a lawsuit
7. Organizing and managing files, documents, and exhibits, court dates and notifications to the party involved
8. Proof reading documents and papers of the case file and pleadings which are being filed with the court
9. Filing documents with federal and state courts
10. The everyday handling of clients including the constant, and sometimes difficult, client telephone calls
11. Every day problems, computer, etc., which do come up almost on a daily basis

The paralegals with our firm are trained for at least six months on their duties, how to address clients in a professional and kind manner. It is important that client feels comfortable with the paralegal and knows that they can trust the paralegal.

Finally, I also acknowledge the paralegal whenever I can. I am thanking my paralegal, Canaria Jean Brown, of her work and contribution for this paper.

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