

## Draft Temporary Rule Revisions

### **Revised Rule 5.E. – Eligibility – Restoration of Civil Rights Under Florida Law:**

An individual will have his or her civil rights restored by executive order, excluding the specific authority to own, possess, or use firearms, upon submission of an application pursuant to Rule 6, and approval by the Clemency Board after confirmation that the applicant has satisfied all eligibility criteria defined in Rule 9.

An applicant who does not meet the eligibility criteria defined in Rule 9 may submit an application pursuant to Rule 6 for a pardon under Rule 5.A.

If the applicant was convicted in a federal or out-of-state court, he or she must be a legal resident of the State of Florida at the time the application is filed, considered, and acted upon.

### **Revised Rule 9 – Restoration of Civil Rights Under Florida Law:**

#### **A. Criteria for Eligibility**

An individual may apply for restoration of civil rights, excluding the specific authority to own, possess, or use firearms, five (5) years after the completion of all sentences imposed, and after all conditions of supervision have been completed, including, but not limited to: imprisonment, parole, probation, community control, control release, and conditional release.

An applicant who meets the following criteria shall have his or her civil rights restored by executive order issued by the Clemency Board, excluding the specific authority to own, possess, or use firearms, upon submission of an application pursuant to Rule 6, and confirmation by the Office of Executive Clemency that all conditions identified below have been satisfied:

1. No outstanding victim restitution, fines, or court costs assessed for the felony or felonies for which the applicant is seeking clemency, including amounts converted to a civil judgment or lien;
2. No outstanding detainers or pending criminal charges at the time the application is filed, considered, and acted upon;
3. Has not been adjudicated guilty, or had adjudication withheld, of any misdemeanor or felony offense for the five-year period preceding the submission of the application;
4. No temporary or permanent injunctions for protection against domestic violence, dating violence, repeat violence, stalking or cyberstalking, harassment, or similar no contact orders issued by a court for the ten-year period preceding the submission of the application;
5. Has not been adjudicated guilty, or had adjudication withheld, of the following enumerated offenses:
  - a. Murder, or attempted murder (s.782.04, F.S.); attempted felony murder (s.782.051, F.S.); manslaughter (s.782.07, F.S.);
  - b. Aggravated battery, or attempted aggravated battery (s.784.045, F.S.); felony battery (s.784.03, F.S.); domestic battery by strangulation (s.784.041,

F.S.); aggravated assault (s.784.021, F.S.); aggravated stalking (s.784.048, F.S.);

- c. Aggravated battery, battery, or aggravated assault on a law enforcement officer or other specified officer (s.784.07, F.S.);
- d. DUI manslaughter, or DUI causing serious bodily injury (s.316.193); leaving the scene of accident involving serious bodily injury or death (s.316.027, F.S.);
- e. Sexual battery, or attempted sexual battery, unlawful sexual activity with a minor, female genital mutilation (Ch. 794, F.S.);
- f. Kidnapping, or attempted kidnapping (s.787.01, F.S.); false imprisonment (s.787.02, F.S.); luring or enticing a child (s.787.025, F.S.); human trafficking (s.787.06, F.S.);
- g. Robbery, or attempted robbery (s.812.13 and s.812.131, F.S.); carjacking, or attempted carjacking (s.812.133, F.S.); home invasion robbery, or attempted home invasion robbery (s.812.135, F.S.);
- h. Burglary of a dwelling, or attempted burglary of a dwelling, first-degree burglary, or attempted first-degree burglary (s.810.02, F.S.);
- i. Arson, attempted arson, or conspiracy to commit arson (s.806.01, F.S.);
- j. Trafficking or conspiracy to traffic in illegal substances (s.893.135, F.S.); all first-degree and second-degree felonies described in Ch. 893, F.S.;
- k. Aggravated abuse of an elderly person or disabled adult (s.825.102, F.S.); lewd or lascivious offense upon or in the presence of an elderly or disabled person, or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person (s.825.1025, F.S.); exploitation of an elderly person or disabled adult (s.812.103, F.S.);
- l. Aggravated child abuse (s.827.03, F.S.); sexual performance by a child, or attempted sexual performance by a child (s.827.071, F.S.);
- m. Failure to register as a sexual predator (Ch. 775, F.S.) or sexual offender (s.943.0435, F.S.);
- n. Computer pornography, transmission of computer pornography, or any crime involving a minor in violation of Ch. 847, F.S.;
- o. Any violation of Chapter 800, F.S.;
- p. Poisoning of food or water (s.859.01, F.S.);
- q. Abuse of a dead human body (s.872.06, F.S.);
- r. Aircraft piracy (s.860.16, F.S.);
- s. Unlawful throwing, placing, or discharging of a destructive device or bomb (s.790.161, F.S.); illegal manufacture, possession, or use of explosives (s.552.22, F.S.);
- t. Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism (s.836.10, F.S.);
- u. Facilitating or furthering terrorism (s.775.31, F.S.);
- v. Treason (s.876.32, F.S.);

- w. Possession of a firearm or ammunition by a convicted felon (s.790.23, F.S.); possession of a firearm or ammunition by a violent career criminal (s.790.235, F.S.);
  - x. Bribery, unlawful compensation or reward for official behavior, corruption by threat against public servant, official misconduct (Ch. 838, F.S.); extortion by officers of the state (s.839.11, F.S.); misappropriations of moneys by commissioners to make sales (s.839.17, F.S.);
  - y. Any crime committed by an elected official while in public office;
  - z. Any felony violation of an election law;
  - aa. RICO;
  - bb. Any crime designated as a “dangerous crime” under s.907.041, F.S.;
  - cc. Any offense committed in another jurisdiction that would be an offense listed in this section if that offense had been committed in this State;
6. Has not been declared to be one of the following:
- a. Habitual felony offender (s.775.084(1)(a), F.S.);
  - b. Habitual violent felony offender (s.775.084(1)(b), F.S.);
  - c. Three-time violent felony offender (s.775.084(1)(c), F.S.);
  - d. Violent career criminal (s.775.084(1)(d), F.S.);
  - e. Prison releasee reoffender (s.775.082(9)(a), F.S.);
  - f. Sexual offender (s.943.0435(1)(h)1., F.S.);
  - g. Sexual predator (s.775.21, F.S.);
7. If convicted in a court other than a court of the State of Florida, must be a legal resident of the State of Florida at the time the application is filed, considered, and acted upon.
8. No prior grants of clemency, including commutations, pardons, or restorations of civil rights.

#### **B. Action by Clemency Board**

The Office of Executive Clemency shall receive the applications of individuals who have applied for restoration of civil rights pursuant to Rule 6. The Office of Executive Clemency shall review each application to confirm the applicant’s eligibility pursuant to the criteria defined above. Each complete application shall be processed in the order in which it was received. The review by the Office of Executive Clemency shall proceed in an expeditious manner, and must be completed within four (4) years of receipt.

On a monthly basis, the Office of Executive Clemency shall transmit to the Clemency Board Members a written list, identifying the applicants who have been confirmed to be eligible for restoration of civil rights according to the criteria defined above. The Clemency Board Members shall issue an executive order approving the list of applicants for restoration of civil rights, excluding the specific authority to own, possess, or use firearms, within thirty (30) days of receipt of the monthly written notice from the Office of Executive Clemency.