

Dear Senators LAKEY, Foreman, Wintrow, and
Representatives SKAUG, Scott, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Commission of Pardons and Parole:

IDAPA 50.01.01 - Rules of the Commission of Pardons and Parole- Temporary and Proposed Rule
(Docket No. 50-0101-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/28/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/25/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: October 9, 2024

SUBJECT: Commission of Pardons and Parole

IDAPA 50.01.01 - Rules of the Commission of Pardons and Parole- Temporary and Proposed Rule (Docket No. 50-0101-2401)

Summary and Stated Reasons for the Rule

The Commission of Pardons and Parole submits notice of temporary and proposed rulemaking at IDAPA 50.01.01 - Rules of the Commission of Pardons and Parole. This rule change provides that a person convicted of felony domestic violence or attempted strangulation may apply for a pardon no sooner than fifteen (15) years following the date they pled or were found guilty of the crime. The Commission states that this rule change is being done in response to the passage of House Bill 600 in 2024.

Negotiated Rulemaking / Fiscal Impact

The Commission states that negotiated rulemaking was not conducted because the rule change is being done due to a change in statute. There is no anticipated fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Commission in Section 20-1004, Idaho Code.

cc: Commission of Pardons and Parole
Mary Schoeler

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 50 – COMMISSION OF PARDONS AND PAROLE
50.01.01 – RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-2401
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 20-1004 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule is being adopted due to the change in law and the passing of H.B. 600. This changes the time frame in which a person convicted of Assault and Battery and Attempted Strangulation can apply for a pardon.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is being adopted due to the change in the law during the 2023-2024 legislative session.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no negative impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the change in the law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mary Schoeler (208) 334-2520.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 1st day of July, 2024.

Ashley Dowell
Executive Director
Idaho Commission of Pardons and Parole
3056 Elder St.
Boise, ID 83705
(208)-334-2520

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 50-0101-2401
(Only Those Sections With Amendments Are Shown.)**

50.01.01 – RULES OF THE COMMISSION OF PARDONS AND PAROLE

550. PARDON.

A pardon may be considered for a person convicted of any misdemeanor or felony crime. A pardon does not expunge or remove the crime from the applicant's criminal history. (7-1-24)

01. General. An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (7-1-24)

a. Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than five (5) years after the satisfaction of the sentence on the crime for which they are requesting a pardon. (7-1-24)

b. Applications for pardon for violent or sex crimes or other crimes against a person may be submitted for consideration no sooner than ten (10) years after the satisfaction of the sentence on the crime for which they are requesting a pardon. (7-1-24)

c. In addition to the provisions of (a) and (b), applications for pardon for vehicular manslaughter pursuant to Section 18-4006(3)(b), Idaho Code, felony Domestic Violence, pursuant to Section 18-918 Idaho Code, Attempted Strangulation pursuant to Section 18-923 Idaho Code or driving under the influence, including any violation of Sections 18-8004, 18-8004C, 18-8005 or 18-8006, Idaho Code, may be submitted for consideration no sooner than fifteen (15) years after that date which the applicant pled guilty to or was found guilty of such a crime. (7-1-24)(7-1-24)T

d. A pardon application will not be considered while an offender is incarcerated or on supervision. (7-1-24)

e. The Commission will determine whether a hearing will be granted and the applicant will be notified of the decision in writing. (7-1-24)

02. Application. A pardon application can be obtained from the Commission office or on the Commission website. (7-1-24)

a. The application must be completed and returned to the Commission office. (7-1-24)

i. The completed application must include the reasons why the pardon is requested. (7-1-24)

ii. The applicant may attach letters of recommendation or other documents to support the request. (7-1-24)

iii. The applicant must include copies of all court judgments and conviction documents, as well as police reports for each crime for which a pardon is requested. (7-1-24)

iv. A pardon may be requested only once during a twelve-month (12) period from the date of denial unless otherwise stated by the Commission. (7-1-24)

v. An application may not be considered if there is significant law enforcement contact since sentence or discharge. (7-1-24)

b. Upon receipt of the completed application and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report will contain the following: (7-1-24)

i. A criminal records check will be conducted to include any law enforcement contact since the release from supervision or incarceration. (7-1-24)

ii. The applicant's employment history since discharge from supervision or incarceration. (7-1-24)

iii. The applicant's willingness to fulfill the obligations of a law-abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (7-1-24)

iv. The applicant's employment and education status, including any professional or vocational achievements, training, and any additional information as deemed necessary or appropriate. (7-1-24)

v. Confirmation that all restitution and fines as ordered by the sentencing court are paid. (7-1-24)

vi. An interview with the applicant may be conducted and a summary of the interview provided. Said interview may be conducted in person or by electronic means. (7-1-24)

03. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. If a pardon hearing is scheduled, the Commission will determine the date of the hearing. (7-1-24)

a. Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (7-1-24)

b. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (7-1-24)

c. Victims of the offender will be notified in writing when a hearing is scheduled. (7-1-24)

d. Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (7-1-24)

i. The Commission shall make such appearance mandatory, or may deny the pardon. (7-1-24)

e. The applicant will be given written notice of the decision and such notice will be sent to the last known address. (7-1-24)

f. The decision and supporting documents regarding a pardon will be filed with the Secretary of State consistent with Section 20-1018, Idaho Code. (7-1-24)