



ASIAN AMERICANS
**ADVANCING
JUSTICE**
ASIAN LAW CAUCUS

GUIDE TO CALIFORNIA PARDONS

MAY 2019



Table of Contents

Introduction	2
Acknowledgments	2
What is a pardon?	3
Who can apply for a pardon?	3
How can you apply for a pardon?	3
How do you fill out the application?	5
What should you attach to the application?	8
Where do you send the application?	10
What can you expect after submitting the application?	10
Process for people with a prior felony or felonies	11
Appendices	
A Blank Pardon Application	
B Sample Support Letters	
C Supporting Documents Checklist	

Introduction

This guide is for people facing deportation due to a California state conviction.¹ Over the past few years, California has lead the way in the use of pardons and commutations to address mass incarceration and deportation. While from 1991 to 2010, California governors granted a total of just 28 pardons, over a thousand were granted over the past few years. In 2018, California passed AB 2845 providing the first reforms to the pardon process in decades and making the process easier to navigate. Governor Gavin Newsom has indicated a continued desire to address mass incarceration and deportation.

Since the pardon application process can be challenging, we want to support people in submitting as strong an application as possible as we continue to organize to restore people's rights and to allow immigrants to seek relief from deportation.

We would appreciate any additional information from applicants and advocates about their experiences with this process. We invite you to contact Advancing Justice – Asian Law Caucus if you would like to provide feedback.

Please share the guide as a resource to support people who have served time in prison, immigrants with conviction(s) facing deportation, and families helping their loved ones seek relief through a pardon.

The material included is for informational purposes only and not for the purpose of providing legal advice.

Note to attorneys: We urge attorneys to support pardon applications *pro bono* (free of charge). Please do not charge individuals for the information gathered and shared here. This guide is intended to redistribute resources and increase access to relief.

Acknowledgments

We thank the California Coalition for Women Prisoners for their commutation application guide, which we significantly drew upon to compile this pardon guide.

¹ Pardons may not fully resolve your immigration case if you did not previously have legal status or were ordered removed for certain convictions including drug trafficking, firearms, and domestic violence. You should consult with an attorney to see if a pardon would help in your situation. California has a number of clean slate vehicles which can also provide immigration relief and may be a better option for you.



What is a pardon?

A pardon restores rights, such as the ability to obtain a professional license, and also allows for immigrants, in some cases, to reopen their deportation cases.

Many immigrants are ordered deported based on an underlying conviction. Consequently, immigrants with convictions, including very old convictions, live with the threat of being deported from the United States. Immigrants facing deportation in the near future may be able to seek a pardon to eliminate the immigration consequences of their conviction.

Who can apply for a pardon?

Generally, anyone with a California state conviction can apply to the Governor for a pardon. As explained below, the process of applying for a pardon may vary depending on your situation and criminal history. The Governor cannot pardon federal convictions or convictions from other states.

Applicants do not need an attorney to apply for pardon. Some applicants do work with attorneys, but it is not required.

I previously applied for a pardon. Do I need to submit a new application?

If you applied for a pardon before this year either directly or through a Certificate of Rehabilitation, your application is considered closed. If the application was submitted in the past three years, you can reapply without sending in a new application submitting a re-application request available at <https://www.gov.ca.gov/wp-content/uploads/2019/03/Clemency-Re-Application.pdf>. You do not need to resubmit previously submitted documents but can continue to send in new documents.

If you applied more than three years ago, you will need to send in a new application and supporting documents.

How can you apply for a pardon?



There are two ways you can apply for a pardon - a Certificate of Rehabilitation (COR) or a direct pardon. Most people who are granted pardons go through the COR process. If you do not qualify for a COR or cannot wait because you may be deported, you can request a direct pardon and explain why you cannot seek a COR.

Certificate of Rehabilitation (COR)

A COR is a court order declaring that a person convicted of a crime is now rehabilitated. You apply for a COR in the Superior Court in the county in California where you currently reside or the county where you were convicted. Not everyone qualifies to apply for a COR.

You must meet the following requirements to apply for a Certificate of Rehabilitation:

1. Currently reside in California and have resided here for at least the last five years;
2. Have one of the following convictions and sentences:
 - A felony² conviction and sentenced to a California state prison or youth authority; or
 - A felony conviction and sentenced to probation and had that conviction expunged; or
 - A misdemeanor sex offense listed in California Penal Code § 290 and had that conviction expunged
3. Have completed probation or parole. You will need to wait an additional number of years after completing probation, parole, or your release from custody. The length of time varies from 7 to 10 years depending on your conviction. See Penal Code § 4852.03 for how long you must wait. Check with an attorney if you are not sure if you qualify.

An application for a COR can usually be obtained from the court clerk, probation department, or public defender's office. Once a petition is filed, the district attorney or probation may conduct an investigation. The court will schedule a hearing.

If the court issues a COR, the certificate is forwarded and automatically becomes an application for a pardon. You should receive a letter confirming that the COR was forwarded. The Governor's receipt of a COR does not guarantee that a pardon will be granted.

Direct Pardon Applications

² If you have a misdemeanor conviction for a non-sex offense or your felony conviction was reduced to a misdemeanor under PC 17(b), you do not qualify for a Certificate of Rehabilitation. You can still apply for a direct pardon.



If you do not qualify for a Certificate of Rehabilitation or are in danger of deportation in the near future and cannot wait for the Certificate of Rehabilitation process, you can apply for a direct pardon from the Governor.

To apply for a direct pardon, you need to submit an application form and supporting documents to the Governor. You will also need to send a copy of the application and supporting documents to the District Attorney for each county where you are seeking a pardon. You will need to sign a statement at the end of the application that you sent a copy to the District Attorney.

A copy of the application form is attached to this guide. It is also available online at <https://www.gov.ca.gov/wp-content/uploads/2019/03/Pardon-Application.pdf>. We will go through how to answer each question and documents you should attach.

How do you fill out the application?

The application has five main sections. Below find suggestions on how to answer each question on the application form. Most of your answers will not fit in the space provided. You can provide your answers on separate pages.

Question 1

1. Conviction Summary (*Note: The Governor's Office will review a complete copy of your criminal history report.*)

List conviction(s) for which you are requesting a pardon.			
Crime(s):	Date(s) of conviction:	County of conviction(s):	Sentence(s):

List all convictions for which you are seeking a pardon. You should still include information on all convictions even if you are not seeking a pardon or the conviction was expunged. The Governor's office will conduct a background check and look at all criminal convictions.

If you are not sure about the detail of your convictions, there are three ways that you can look up this information:

1. County records: If you know which counties your convictions are in, you can contact the criminal court in that county and request the records. Some counties allow you to look up information online for a fee. Other counties require you to request the records in person or in writing. If you also have a federal conviction, you can look up the case online using the PACER system - <https://www.pacer.gov/>.
2. California Live Scan: You can also request your California criminal history through the Live Scan process. You will need to go in person location to have your fingerprints taken electronically. You will receive a list of all of your California convictions in the mail.



This will not include federal or out of state convictions. A list of Live Scan locations is available at <https://oag.ca.gov/fingerprints/locations>.

3. FBI Background Check: If you are not sure what states your convictions are in or have federal convictions, you can request a nationwide criminal history through the FBI. The process requires you to take ink fingerprints. Some but not all Live Scan locations offer this service. Information on the process is available at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

This question also asks: “Were you under 26 years of age at the time of the crime(s) for which you are seeking a pardon?” Recent scientific research and court decisions have recognized that youth under the age of 26 do not have the same decision making ability or culpability.

Question 2: Describe the circumstances of your crime(s).

You likely cannot answer this question in the space provided. Attach pages with your answer.

How you answer this question will be depend on whether:

1. You take full responsibility for the crime; or
2. You take partial responsibility for your conviction but were not the person who caused direct harm; or
3. You maintain your innocence.

Obtaining a pardon while maintaining innocence can be challenging but not impossible. If you do take responsibility, you should not try to minimize your mistakes. Instead, you can explain how your life, patterns, major events, experience with abuse, etc. led to your conviction.

1. If you take full responsibility for your crime of conviction:

Acknowledge personal responsibility and individual culpability; describe how you understand the harm you caused, how you feel and show remorse about your actions and choices.

Describe anything about the context of your life at the time that mitigates the crime, for instance:

- if you were young (under the age of 26), discuss how your age played a role
- if you were a victim of abuse (i.e. childhood sexual abuse, domestic violence, sexual violence, sex trafficking, physical violence, gender-based violence)
- if you were suffering from an addiction
- if you experienced neglect in the child welfare system
- if you were homeless, etc.

It is important to frame your contextual information not as an excuse for what you did but rather, in the vein of, “I’m trying to understand how I could have committed the crime.”



Share context that helps explain any negative information in your police and prison files, for example, explain the context for any disciplinary infractions, etc. If you received many disciplinaries earlier in your jail and or prison time, show that you have insight into your emotional state and behaviors that led to those incidents, and explain how you changed over time.

2. If you take partial responsibility for your crime of conviction but were not the person who caused direct harm:

Describe why you believe that although you were partially responsible, you were assigned too much responsibility for the crime. This can be tricky, because you have to do so while at the same time acknowledging some personal responsibility and also while being diplomatic about any direct criticism of the court's decision.

3. If you maintain your innocence:

Describe why you maintain your innocence and the circumstances in which you were convicted for the crime. This can be tricky because you have to do so while at the same time expressing some degree of personal accountability and while being diplomatic if directly criticizing the court's decision. Decision makers often penalize people for not taking responsibility for their actions. We understand that this might feel like a contradictory position, but it is important to demonstrate personal accountability if you did have some responsibility for what happened.

It is important to take responsibility for whatever role, if any, you did play in the crime. For instance, you might say "I'm trying to understand how I could have put myself into a situation where I was implicated in this crime." or if you had no role in the crime, you can simply state "I was convicted of _____."

Question 3: Describe how a pardon may impact your life (e.g., immigration consequences, employment opportunities, impact on family members, civic participation).

You can explain that you need a pardon because you are facing deportation or to restore other rights. If you are applying for a direct pardon, you should explain why you do not qualify for a Certificate of Rehabilitation or why you cannot go through the process because you may be deported soon. Attach news articles showing that people are being rounded up for your country.

You can also share your family's immigration story. If you came here as a refugee or fleeing persecution, provide that background information. You should stress how long you have lived in the United States and your family ties here. You should also explain the emotional and financial hardship that deportation would cause to you and your family. You can explain conditions in the country where you will be deported especially if you fear discrimination or persecution.

Question 4: Provide a brief statement explaining why you should be granted a pardon (attach additional pages if necessary)



Describe your process of change and rehabilitation since your conviction and release from prison. In detail, describe how you turned your life around. Highlight programs that helped such as substance/alcohol abuse counseling, faith-based, support groups, and classes. Explain insights that you have achieved about your circumstances, behaviors, and patterns, and describe the skills you've developed to respond to personal challenges differently.

Highlight positive things that you did while in prison or since your release in the community and attach supporting documents. The Governor's pardon often mentions these details about people. For example, highlight community service and work history.

Question 5: If you have paid any money or given any gift to anyone to assist you in preparing this application, you are required by law to list their name, address, phone number, email address, the nature of your relationship, and amount paid or gift given.

If you paid a lawyer or anyone else to help you with your application, you need to provide their information here. If an organization is helping you for free, you do not need to list them.

What should you attach to the application?

There are a number of documents that you should attach to your application. Some examples are provided below. You should submit the documents organized into sections.

Support Letters

Letters supporting your pardon are a critical part of your application. Supporters should describe their knowledge of applicant's character and provide reasons why applicant should stay in the United States and or the hardships applicant or family members would suffer if deported. The letters should not minimize your convictions but instead talk about your positive qualities. Sample support letters are included with this guide.

Some examples of people you can ask for support letters:

- Family members
- Friends
- Neighbors
- Landlord
- Clergy or spiritual leaders
- Employers
- Community organizations

Family Ties

- Copy of Marriage Certificate
- Copy of Children's Birth Certificates



Work History

- Letters from Current or Past Employers
- Copies of Income Tax Returns and W-2s
You can request a summary of your tax returns at <https://www.ssa.gov/myaccount/>
- Certificates, Licenses, or Evaluations

Community Ties

- Evidence of Volunteer Work or Donations
- Participation in church or community groups

Education

- High School Diploma
- GED Certificate
- College or Other Degrees
- Transcripts if currently enrolled
- Programs (AA/NA, Domestic Violence, etc.)
- School records for children

Financial Hardship

- Family budget showing dependent on your income
- Copies of bills
- Copy of Children's Birth Certificates

Medical Hardship

- Letter from doctor or social worker describing medical issues for family members (if you help take care of them or take them to appointments, include that)
- Medical records
- Evidence that medical treatment is not available in home country

Country Conditions

- Evidence of poverty
- Reports of human rights violations
- Evidence that you would face persecution or discrimination

Immigration Documents

- Removal Order
- Order of Supervision Check-In Sheet

Prison Records

If you had an exceptional record in prison or took part in helpful programs, you can attach records.

- Programs completed, including self-help groups, jobs



- Participation in Fire Camp
- Attendance at church or other religious/spiritual activities
- Participation in charity events or efforts
- Chronos from COs, supervisors, etc.
- Admission to honor dorms or other accomplishments

If you no longer have a copy of your prison records, you can request a copy of your Central File from the California Department of Corrections and Rehabilitation by filling out a CDCR Form 7385 - <https://www.cdcr.ca.gov/OLA/documents/CDCRForm7385.pdf>.

If you are still on parole, send the form to:

California Department of Corrections and Rehabilitation
 Parole Case Records
 9160 Cleveland Avenue
 Rancho Cucamonga, California 91730
 Fax Number: 909-484-3785

If you are no longer on parole, send the form to:

CDCR – Archive Unit
 2015 Aerojet Rd, Suite D
 Rancho Cordova, CA 95742
 (916) 358-1521 Mainline
 (916) 358-1554 Fax

Public Support: One strategy that can be very helpful is asking family members, friends, or organizations to solicit more community support for your pardon. This can take the form of online petitions, individual postcards, and/or support letters — all of which should be addressed and sent to the Governor. The goal here is to bring attention to your application and show community support for your pardon.

You should also contact elected officials to ask them to write letters of support for your pardon. This includes state senators, assembly members, city council members, school board members, and members of Congress.

Where do you send the application?

Applicants for a direct pardon may obtain the application either by accessing the Governor’s website at www.gov.ca.gov, click on this link to access the direct pardon application <https://www.gov.ca.gov/wp-content/uploads/2019/03/Pardon-Application.pdf>, or request an application through the mail. Upon completing the pardon application send it to the following address:



Office of the Governor
State Capitol
Attn: Legal Affairs/Clemency
Sacramento, CA 95814

Remember to also serve the District Attorney's office for the county or counties of conviction. You can find their address here - <https://www.cdaa.org/district-attorney-roster>. You must also sign the declaration at the end of the application form that you served the District Attorney. While you only need to send the application form to the District Attorney, it may be helpful to send all of the additional documents as well so they have a better idea of who you are as a person.

After Submitting the Application

Once you submit your pardon application, you can continue to send in supporting documents (i.e. support letters, and any other documentation that supports your application).

The Governor's office may send you an application number once they receive your application, but you do not need the application number to send in additional documents. You only need to include your name with additional documents.

If selected for further review, applicants may or may not be interviewed by a Board of Parole Hearings (BPH) investigator. It is possible that you will get a call from an investigator asking for additional information. The investigator can either follow up on possible mitigating circumstances identified in applicant's petition to determine if individual culpability in the commitment offense, or gathering additional information regarding the crime, criminal history, or any other needed clarification(s) of applicant's petition.

It is recommended to be prepared and candid as possible in an interview because it would be a chance to highlight the person you are today and being able to speak truth to your rehabilitation, why you are requesting a pardon, and why you believe a pardon should be granted for you.

Whether an applicant is interviewed by a BPH investigator or not it does not mean there is a lower chance of being granted a pardon. There have been pardon grants where applicants submitted their application packet and did not have to go through a BPH interview process or if they were contacted by an investigator it was usually a short phone or in person interview.

Process for People with a Prior Felony or Felonies



If you have more than one felony conviction, the governor cannot grant a pardon until you are recommended by the California Supreme Court.³ The application process is the same one that everyone else goes through. The Governor decides which applications are sent to the Supreme Court for review. They are not required to forward all applications to the Supreme Court. Just as with applicants without priors, applicants with priors may or may not be interviewed by a BPH investigator.

Appendicies

- A. Blank application for gubernatorial pardon
- B. Sample support letters
- C. Supporting documents checklist

³ See California Penal Code § 4802. Multiple felony counts from a single case are treated as one felony. It may be possible to get around this additional hurdle by reducing some of your felonies to misdemeanors. Consult with a criminal law attorney or a free local “clean slate” clinic to determine if a reduction is possible.





Governor Gavin Newsom · State Capitol · Sacramento, California 95814

APPLICATION FOR PARDON

Complete this application to request a gubernatorial (governor’s) pardon. This application is for a direct pardon; do not complete this form if you have been granted a Certificate of Rehabilitation. If you have submitted a pardon application in the last three years or if you have obtained a Certificate of Rehabilitation, please complete a re-application form. The Governor’s Office and/or the Board of Parole Hearings may contact you for additional information relating to your application. If the Governor grants you a pardon, some information from your application will appear in a public report about clemency submitted to the California Legislature each year. Learn more about the pardon application process at www.gov.ca.gov/clemency or mail a request for information to: **Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA 95814.**

APPLICANT INFORMATION (Attach additional pages as necessary)

Name (Last/First/Middle): _____

Date of Birth: _____ Social Security Number: _____

Residence Address: _____

Mailing Address (if different): _____

Home/Cell Phone: _____ Work Phone: _____ Email: _____

1. Conviction Summary *(Note: The Governor’s Office will review a complete copy of your criminal history report.)*

List conviction(s) for which you are requesting a pardon.			
Crime(s):	Date(s) of conviction:	County of conviction(s):	Sentence(s):

Were you under 26 years of age at the time of the crime(s) for which you are seeking a pardon? YES NO

List all prior conviction(s) in California, any other state or country, or in federal court:			
Crime(s):	Date(s) of conviction:	Location of conviction(s):	Sentence(s):

2. Describe the circumstances of your crime(s).

3. Describe how a pardon may impact your life (e.g., immigration consequences, employment opportunities, impact on family members, civic participation).

4. Describe your life since your conviction (e.g., efforts in self-development, including identifying and addressing treatment needs, professional and educational achievement; any set-backs, arrests, and new convictions; insight about past conduct; and future goals).

5. If you have paid any money or given any gift to anyone to assist you in preparing this application, you are required by law to list their name, address, phone number, email address, the nature of your relationship, and amount paid or gift given.

APPLICANT DECLARATION

Complete the following statement after you have served your Notice of Intent to Apply for Clemency.

I, _____, declare under penalty of perjury under the laws of the State of
(Print Applicant Full Name)

California that the information I have provided on this application is true and correct. I further declare that I have served (mailed or delivered) my notice of intent to apply for clemency on the District Attorney of the County of _____.
(Name of County or Counties)

Applicant Signature

Date

Submit this completed 2-page form to the **Office of the Governor, State Capitol, Attn: Legal Affairs/Clemency, Sacramento, CA 95814**. You may, but are not required to, include copies of relevant documents that support your application (e.g., certificates of achievement, photographs, letters of support, etc.). Do not send original documents, as application documents cannot be returned. Please update the Governor’s Office promptly if your contact information changes. Submit a completed Notice of Intent to Apply for Clemency to the district attorney in the county of your convictions for which you are seeking a pardon.

TEMPLATE SUPPORT LETTER

[Date of support letter]

Dear Governor:

[Introduce yourself: What is your full legal name? Where do you live? Who are you writing this support letter for? How do you know the person? How long have you known them?]

[Describe the positive contributions she/he has made in your life and in his/her family and community. If possible, include stories and specific details to illustrate what you are saying about this person.]

[Explain why it is important to you that this person remains in the U.S. If you, or someone you know, depends on the person financially, emotionally, etc. please describe and add specific examples.]

Please do not hesitate to contact me at [Supporter's phone number] or [Supporter's email].

Thank you for your time.

Sincerely yours,

[Supporter's signature]

[Supporter's full legal name]

[Supporter's address]

Governor Edmund G. Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Brown:

My name is Laura Le, and I write in support of Sandra Khim's application for a pardon. I have known Sandra for over nine years, and she is such a dear friend to me that I would consider her to be family. I first met Sandra in 2009 at a parents' event held at the middle school that both of our children attended. We chatted that night for hours, and quickly became friends. Early in our friendship, Sandra was already open about her criminal background and how she lived in fear of being deported back to Cambodia.

Sandra's past should not be ignored, but I implore you to take into account all the time that has elapsed. All of us have made mistakes that we wish we could undo. How many of us would want to be held responsible for the worst fifteen minutes of our lives? Sandra holds herself fully accountable for her poor choices, but she and I have discussed at length how she got to that desperate junction in her life. As a scared young woman, Sandra woke up once she was placed behind bars. She had been living her life like it didn't have consequences, but she soon realized that this was because she didn't give herself enough credit, that she didn't value herself enough. I believe her when she says that she wants to change her life and to break the cycle of violence and abuse.

After prison, Sandra immediately distanced herself from her old friends because she knew that they would continue to be a bad influence on her. While working to support herself and her elderly parents, she put herself through school. Sandra also became a mother, and is now proudly raising a beautiful daughter. It's not easy being a single mother, but Sandra takes it all in stride. Whenever other parents in our friend group need help babysitting, she is often the first to volunteer.

Sandra relies on her temple community to keep her strong, and often encourages me to come with her to cultural and volunteer events. Kind and generous, she is a great example of what happens when we give people second chances. Unfortunately, Sandra is now facing deportation to Cambodia, a country that she left as an infant when her parents fled the Khmer Rouge. She does not even speak Khmer, and has no surviving family there. Her home is here

with us in the United States. Sandra's thirteen-year-old daughter May needs her mother, and Sandra's parents would not be able to get to their doctors' appointments, pick up groceries, or live in dignity without her daily assistance.

I understand that your office gets many requests for clemency, but I implore you to consider Sandra for a pardon so that her deportation can be prevented. If your office requires further information about Sandra, please do not hesitate to contact me at (510) 555-9382 or LauraLe@gmail.com.

Thank you for your time.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Laura Le', with a long horizontal line extending to the right.

Laura Le
2381 Tomales Lane #C
Berkeley, CA 94722

Checklist of Supporting Documents for a Pardon

Support Letters

- Family members
- Friends
- Neighbors
- Landlord
- Clergy or spiritual leaders
- Employers
- Community organizations

Family Ties

- Copy of Marriage Certificate
- Copy of Children's Birth Certificates

Work History

- Letters from Current or Past Employers
- Copies of Income Tax Returns and W-2s
- Certificates, Licenses, or Evaluations

Community Ties

- Evidence of Volunteer Work or Donations
- Participation in church or community groups

Education

- High School Diploma
- GED Certificate
- College or Other Degrees
- Transcripts if currently enrolled
- Programs (AA/NA, Domestic Violence, etc.)
- School records for children

Financial Hardship

- Family budget showing dependent on your income
- Copies of bills
- Copy of Children's Birth Certificates

Medical Hardship

- Letter from doctor or social worker
- Medical records
- Evidence that medical treatment is not available in home country

Country Conditions

- Evidence of poverty
- Reports of human rights violations
- Evidence that you would face persecution or discrimination

Immigration Documents

- Removal Order
- Order of Supervision Check-In Sheet

Prison Records

- Programs completed, including self-help groups, jobs
- Participation in Fire Camp
- Attendance at church or other religious/spiritual activities
- Participation in charity events or efforts
- Chronos from COs, supervisors, etc.
- Admission to honor dorms or other accomplishments