

JULY 2005

MAINE

I. Automatic Restoration of Rights:

Right to vote and other civil rights are not lost even upon incarceration.
A firearm permit may be obtained five years after final discharge from sentence.
Me. Rev. Stat. Ann. tit. 15, § 393(2).

II. Discretionary Restoration Mechanisms:

A. Executive pardon:

- *Authority*: Governor has authority to pardon except in cases of impeachment, subject to regulation “relative to the manner of applying.” Me. Const. art. V, pt. 1, § 11. Governor is assisted by non-statutory Pardons Advisory Board, composed of three lawyers he appoints.
<http://www.maine.gov/sos/cec/rcn/boards/pardons.htm> (1977 amendment to constitution eliminated requirement that Governor obtain advice of Executive Council. *See In re Pardoning Power of Governor & Council*, 27 A. 463 (Me. 1892).
- *Administration*: Parole Board is authorized (“when requested by the Governor”) to investigate and hold hearings in pardon cases, and to make recommendations to the Governor in pardon cases. Me. Rev. Stat. Ann. tit. 34-A, § 5210(4). All information gathered by the Parole Board is confidential. *Id.*
- *Eligibility*: As a matter of policy, five years from completion of sentence.
- *Effect*: Lifts automatic barriers, evidences rehabilitation. Because Maine has no expungement law, criminal record is not “wiped clean”; instead, information concerning the pardoned conviction is considered “non-conviction” data and is available under the conditions or circumstances set forth in Me. Rev. Stat. Ann. tit. 16, §§ 611-622. Pardoned person may, ten years after final discharge, apply to State Bureau of Identification to have all references to the pardoned crime deleted from the Federal Bureau of Investigation’s identification record. tit. 15, § 2167. *See also* tit. 34-A, § 11225(4) (lifetime sex offender registration may be avoided by pardon).
- *Process*: Secretary of State receives application, forwards to the Department of Corrections (DOC) for review and background checks; Parole Board then reviews applications and information gathered by DOC to determine whether a hearing will be granted. Notice must be given to the DA four weeks prior to the hearing. Me. Rev. Stat. Ann. tit. 15, § 2161. If hearing is granted, applicant must post notice in the newspaper. Some applicants will be granted an opportunity to

appear at public hearing before Board and Governor's counsel at quarterly meeting of Board.

- *Frequency of Grants:* Current governor regards pardons as exceptional, primarily useful for "working people," for whom pardons make a significant difference in their life (employment, deportation). Nurses, teachers. In 19 month period between January 1, 2003 and August 1, 2004, 262 applications for pardon were received, 89 people were granted hearings, and 11 were granted pardons. Source: Office of the Secretary of State.
- *Contact:* Pardon Clerk, Office of the Secretary of State, 101 State House Station, Augusta, Maine 04333. Telephone (207) 624-7650 or Timothy Poulin, Director of Corporations, Office of the Secretary of State, 207-624-7734 or Tim.Poulin@maine.gov

B. Judicial sealing or expungement of adult felony convictions: N/A

C. Administrative Restoration: Commissioner of Public Safety has the authority, five years from the date of discharge from all sentences, to grant a permit to carry a "black powder weapon."

III. Nondiscrimination in Licensing and Employment:

In determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation. Me. Rev. Stat. Ann. tit. 5, § 5301(1). Section 5301(2) further limits convictions that can be considered. Section 5303 provides that licensing authorities may consider only recent convictions (within the last three or 10 years, depending on type of license sought, with longer period for health care and law enforcement licenses). No standard for public or private employment.