

OCTOBER 30, 2005

WYOMING

Automatic Restoration of Rights:

A person convicted of a felony forfeits the right to vote, to serve on a jury, and to hold public office. Wyo. Stat. Ann. §§ 6-10-106(a), 1-11-102. For most felony offenders, civil rights regained either by pardon or restoration of voting rights from Governor. Wyo. Const. Art 4, § 5; Wyo. Stat. Ann. §§ 6-10-106(a), 7-13-105(a).

First offender restoration: Since July 1, 2003, first-time non-violent felony offenders have been able to apply to the Wyoming Board of Parole for a certificate that restores voting rights five years after successful completion of sentence. Wyo. Stat. Ann. § 7-13-105(b). See IIC below. All other persons seeking to reinstate the right to vote must apply to the Governor for either a pardon or a restoration of rights.

Firearms: A person convicted of a “violent felony” may not possess firearms (including long guns) unless pardoned. See Wyo. Stat. Ann. §§ 6-8-102, 6-1-104(a)(xii).

Licensing statutes: A number of occupational and professional licensing statutes provide that conviction may be grounds for suspension or disqualification of persons convicted of a felony. See, e.g., Wyo. Stat. Ann. § 33-15-121(a)(i) (dental hygienist); § 26-23-321(b)(title agent); § 33-7-311(a)(iii)(barber school instructor). But see Wyo. Stat. Ann. § 33-12-135(b) (cosmetologist), *repealed* by 2005 Wyo. Sess. Laws ch. 98 (limiting felonies disqualifying a person from being a licensed cosmetologist to crimes which “adversely relate[]” to cosmetology).

Discretionary Restoration Mechanisms:

Executive pardon or restoration of rights:

- *Authority:* Governor has authority under constitution to pardon. Wyo. Const. Art 4, § 5. Constitution provides that the legislature may control manner of applying, but it evidently has not done so. Governor must report to the legislature at each session on clemency grants and the reasons for each one.
- *Eligibility:* Persons seeking a pardon or restoration of rights must wait ten years and five years respectively (previously twenty years and ten years) from the time of completion of sentence before applying. Federal and out-of-state offenders are also eligible. Governor’s policy generally excludes

persons convicted of sexual crimes or crimes involving a child as a victim from consideration.

- *Process:* Application for pardon described in Wyo. Stat. Ann. § 7-13-803 through 806. Governor must give notice to DA three weeks prior to acting, and DA must provide details of offense. § 7-13-805(b). According to the Wyoming Attorney General's Office, entire pardon process generally takes about 4-6 weeks to complete from submission of application. Wyoming Board of Parole has a role only in commutation cases, and in statutory restoration of voting rights.
- *Frequency of Grants:* According to the Wyoming Attorney General's Office, there have been only two pardons granted since 1995, and 10 gubernatorial restorations of rights
- *Contact:* Paul Rehurek, Deputy Attorney General, PREHU@state.wy.us, 307-777-7894; Tony Escamilla, Deputy Director, Wyoming Board of Parole. tescam@state.wy.us 307-777-5444.

B. Judicial sealing or expungement of adult felony convictions:

Deferred adjudication for first offenders: A first offender who pleads guilty to a misdemeanor or a non-violent felony may be placed on probation for a period of at least one year and no more than five years; upon successful completion of probation, the court may discharge the person and dismiss the proceedings, and the matter "shall not be a conviction for any purpose." Wyo. Stat. Ann. § 7-13- 301.

Expungement: Wyoming, noted in the 1962 NCCD report as the only state that then made expungement available by statute to persons sentenced to a prison term, now affirmatively prohibits its courts from expunging criminal records, except as specifically authorized by law. *See* Wyo. Stat. Ann. § 7-13-307. The Wyoming Supreme Court has held that Wyoming courts have no inherent power to expunge the felony record of a person who has not been pardoned for the purpose of restoring civil rights, and that it would be an encroachment on the executive power to pardon. *Stanton v. State*, 686 P.2d 587 (Wyo. 1984).

Misdemeanors: Expungement of misdemeanor records for the purpose of restoring firearms rights, *see* Wyo. Stat. Ann. § 7-13-1501.

Deferred Sentencing: First Offender Statute, Wyo. Stat. Ann. § 7-13-301, permits delayed imposition of sentence for first offenders, ex. serious violent offenses and sex offenses. With consent of the defendant and the state and without entering a judgment of guilt or conviction, court may defer further proceedings and place the person on probation for a term not to exceed five (5) years upon terms and conditions set by the court. Charges dismissed after successful completion of probation. Specifically prohibits expungement. *See* § 7-13-307.

C. Administrative restoration:

First Offender Restoration: Under 2003 law, Wyo. Stat. Ann. § 7-13-105(b), Parole Board “shall” restore voting rights to nonviolent first offenders (including out-of-state and federal) five years after successful completion of all terms of sentence. Upon receipt of the written application, the board makes an initial determination of eligibility. Should the board deny the application at this initial determination, the applicant shall have the right to request a contested case hearing before the board as provided by and in accordance with the Wyoming Administrative Procedure Act. The decision of the board after such hearing shall be deemed a final administrative determination, shall be in writing, and, shall in the case of a denial of the application, state the findings of the board and the reasons for the denial and shall not be subject to judicial review. § 7-13-105(c).

From July 1, 2003 until July 31, 2004, six people applied for restoration under this provision, five of whom were approved. The sixth applicant was found ineligible. Source: Wyoming Parole Board.

Nondiscrimination in Licensing and Employment: N/A