**R671. Pardons (Board of), Administration.**

**R671-101. Definitions.**

**R671-101-1. Definitions.**

Unless otherwise provided, as used in Rule R671:

(1) "Commutation" means the change or reduction of the severity of a crime; the change or reduction of an imposed sentence; or the change or reduction of the type or level of offense. Commutation is an act of clemency. Commutation is not a conditional or unconditional pardon.

(2) "Confinement" means a person is held in a jail or a prison or otherwise in the custody of a peace officer pursuant to a lawful arrest. Confinement does not mean an involuntary hold pursuant to a civil order or proceeding.

(3)(a) "Conviction" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Conviction" includes a plea that is held in abeyance pursuant to a plea in abeyance agreement as defined in Utah Code Section 77-2a-1;

(c) "Conviction" does not include:

(i) a withdrawn or dismissed plea; or

(ii) a diversion agreement.

(4) "Correctional facility" means any of the Utah prison facilities operated by the Department or any portion of a county jail contracted with the Department to house offenders.

(5) "Custody"; except when the rule provides a distinction between "custody" and "provisional custody," means that a person is held in jail or prison, and includes a person who is:

(a) in the custody of a peace officer pursuant to a lawful arrest;

(b) a minor confined in a facility operated by the Division of Juvenile Justice and Youth Services, following conviction as an adult in district court, when the district court obtained jurisdiction over the minor pursuant to Utah Code Sections 78A-6-450, 78A-6-451, or 80-6-501 et. Seq.; or

(c) committed to the Department of Corrections, but who is housed at the Utah State Hospital or other medical facility.

(6) "Department." Unless otherwise stated in an individual rule, "department" means the Utah Department of Corrections.

(7) "Effective date," as used in a Board decision, means the event or action shall occur on or before 11:59 p.m. on the designated day. Whenever a calendar date is identified in a Board decision, it shall be the "effective date."

(8) "Health and Human Services" means the Department of Health and Human Services, including the Division of Correctional Health Services.

(9) A "hearing official" is a Board member, a Board member pro tempore, or a hearing officer.

(10) "Incompetent to proceed" means the offender is suffering from a mental disorder or intellectual disability resulting in either:

(a) an inability to have a rational and factual understanding of a pending Board hearing; or

(b) an inability to consult with counsel and participate in a hearing with a reasonable degree of rational understanding.

(11) "Maximum Parole Term" is the expiration date of an offender's combined sentences, or the last day of the offender's legislative parole term, as set forth in Utah Code Section 76-3-202, whichever occurs first.

(12) "Media" means a bona fide newspaper, magazine, or broadcast media enterprise, whether conducted on a for-profit or nonprofit basis, engaged in the business of providing news and information to the general public. per Section 53-25-101.

(13) "Mentally decompensating offender" means an individual who is in the custody of the Department of Corrections (Department), who has not been adjudicated as a mentally ill offender by a court, but whose mental health has decompensated to the point that admission to the State Hospital is necessary to ensure adequate mental health treatment.

(14) "Mentally ill offender" means an individual who has been adjudicated guilty with a mental illness, including an individual who has an intellectual disability, pursuant to Utah Code Section 77-16a-202.

(15) "Public hearing" means a hearing that is available to be viewed by a member of the public, whether in person or by live internet streaming. Public hearing includes "hearing" as discussed in Utah Code Subsection 77-38-2(5)(g). Every personal appearance hearing is a public hearing.

(16) A "pardon" is an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction. A pardon releases an applicant from the punishment prescribed for a criminal offense and from disabilities, to the extent allowable by law, that are a result of the criminal conviction. A pardon reinstates any civil rights lost as a result of conviction or punishment for a criminal offense, to the extent allowable by law.

(17) "Provisional custody" means a minor confined in a facility operated by the Division of Juvenile Justice and Youth Services, following conviction as an adult in district court, when the district court obtained jurisdiction over the minor pursuant to Utah Code Section 78A-6-450, 78A-6-451, or 80-6-501 et. Seq.

(18) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any unpaid amount of a criminal accounts receivable, as in Utah Code Section 77-32b-102.

(17) "Sentence" means:

(a) A judgment, sentence, or commitment issued by a district court pursuant to Utah Code Subsection 77-18-105(2) for a criminal conviction.

(b) When a person is sentenced to prison after being convicted of multiple counts in the same criminal case, or after being convicted in multiple cases, credit for time served will be calculated separately for each sentence.

(18) "State Hospital" means the Utah State Hospital or other facilities designated by the Utah State Hospital where offenders may be housed for mental health treatment.

(19) "Victim" means:

(a) a person against whom the offender committed an offense over which the Board has jurisdiction;

(b) the victim's family if the victim is deceased as a result of the offense over which the Board has jurisdiction;

(c) For the purposes of a revocation hearing or other hearing where the Board is adjudicating whether conduct occurred a victim includes a person against whom the offender allegedly committed an offense or other parole violation; or

(d) Except for purposes of notification and in the Board's discretion, a victim may also include a natural person originally named as an alleged victim in an allegation of criminal conduct who is not a victim of the offense of Board jurisdiction to which the defendant entered a negotiated plea of guilty or no contest.

(20) "Victim representative" means a person designated by a victim or by this rule to represent a victim during Board processes, hearings, or communications.

**KEY: pardons, parole**

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**Authorizing, and Implemented or Interpreted Law: 77-27-9(5); 63G-3**