

Note: The article below was submitted to newspapers for use on their opinion-editorial pages.

People increasingly turning to Pardons Board for a second chance

By John Gale

Most people believe in the redemptive power of a second chance, a fresh start, a new beginning.

It was certainly a strong motivation for the pioneers who moved overland on the Oregon and California trails by wagon train in the mid-1800s. It also motivated the millions of immigrants who came to America seeking a new life.

Our system provides people a second chance when Nebraska judges sentence them to probation instead of sending them to jail or prison (36,943 people were under probation supervision in 2005). Certain prisoners get a second chance when the Nebraska Parole Board grants them early release (906 paroles were granted in fiscal year 2005-06).

A third way to win redemption is through the Nebraska Pardons Board, which holds the power of clemency. The board considers applications of clemency regarding pardons of criminal convictions, reprieves of lengthy license suspensions for driving under the influence (DUI) and reductions of prison sentences.

Clemency originated centuries ago when kings could exercise total reprieve to citizens threatened with harsh penalties. The power of clemency has survived in every state constitution as a power of the governor or a board.

As secretary of state, I am one of three members on the Nebraska Pardons Board. The other two are Gov. Dave Heineman and Attorney General Jon Bruning. The views expressed by me in this article are solely mine and are not necessarily those of the board.

People in increasing numbers are turning to the Pardons Board, looking for a second chance.

The board meets about eight times a year. While not required, the board has adopted the state's open-meeting laws, and conducts its meetings with testimony, roll-call voting, public-policy discussions and a public record.

In recent years, the board has seen a huge jump in the number of people applying for pardons. The number of pardon applications soared from 64 in fiscal year 2000-01 to 163 in 2005-06, an increase of 155 percent. The applications run the gamut from minor misdemeanors to serious felonies.

I believe the increase has been driven primarily by the need of applicants to find employment, advance careers or obtain occupational licensing. Employers are hesitant to hire anyone with a criminal history.

With the higher number of applications, the board also is granting more pardons. The number of pardons granted jumped from 33 in fiscal year 2000-01 to 72 in 2005-06, an increase of 118 percent.

A person needs to meet strict standards to receive a pardon. For a felony, 10 years must have passed since the release from prison or sentencing of probation, and the person must have had a clean criminal record during that period. For a misdemeanor, three years must have passed, and the person must have had a clean record during that period.

In addition to pardons, the Pardons Board continues to see a steady stream of applicants who are seeking reprieves of 15-year license suspensions for third-offense DUI convictions. In these cases, people are trying to convince the board that they have taken the necessary steps to reform to regain driving privileges.

Even if a reprieve is granted, the person is restricted to driving a specially-equipped vehicle that can't be started unless the driver is sober.

Multiple-offense drunken driving has become a major problem in the United States, including Nebraska. As of 2005, 29,802 Nebraska drivers had three or more DUI convictions.

The Pardons Board became so concerned about repeat DUI offenders that it tightened its requirements on granting reprieves.

Previously, an applicant could qualify for a reprieve if the person had served seven years of the suspension, had a clean record during that period and had been sober for three years. In August 2005, the board increased the length of sobriety to seven years.

The board took that action as an added step to protect the public, knowing the extreme danger posed by repeat DUI offenders.

The third area that the board deals with is applications to commute or reduce sentences that prisoners are currently serving. The current board has been extremely reluctant to commute prison sentences involving any crime.

The board has come under criticism for the fact that it has not commuted a life sentence without parole since 1990. Even if a commutation were granted in such a case, the person would not be released until granted a parole by the Parole Board.

Personally, I take a hard line on commutations. I give great deference to the judiciary system that heard the evidence, handed down the sentence and conducted the post-

conviction, constitutional review of the case. I also have to give great weight to the authority of the Legislature in setting appropriate sentences.

Rehabilitation is certainly commendable and can be important to the quality of life of prisoners, but it doesn't necessarily lead to commutation of life sentences. This is especially true where the crimes were brutal, violent and heinous and where there are no extraordinary circumstances meriting a reduction of the sentence.

In light of the board's record on commutations regarding life sentences, some may view the board as following an inflexible and unyielding tough-on-crime philosophy.

But I believe a review of the board's total record, including pardons and reprieves, reveals a different picture. I think the board has fairly balanced its responsibilities of providing clemency and protecting the public welfare.

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