

North Dakota Reprieve Power

Article 5, § 7 of the North Dakota Constitution establishes the governor's unqualified authority to "grant reprieves, commutations, and pardons." N.D. Const. Art. 5, § 7 (setting forth the governor's core responsibilities as chief executive of the state). "Reprieve" means a temporary relief from or postponement of the execution of a criminal sentence. N.D. Ch. 12-55.1. A reprieve can be granted at any time "after conviction," whether before or after sentencing. N.D. § 12-55.1-04. "[T]he determination of the governor [is] not reviewable by any court." N.D. § 12-55.1-04.

The only requirement for a reprieve to take effect is that the governor sign it. *See* N.D. § 12-55.1-04. "If the governor has granted an application for . . . reprieve . . . and the applicant is still in custody in any correctional facility, the governor may reconsider the decision any time before the applicant is released from the correctional facility." § 12-55.1-08.

While the governor "*may* appoint a pardon advisory board" to assist in processing clemency applications and issuing recommendations, N.D., § 12-55.1-02, the governor has no obligation to consult the board before granting clemency in any particular case. In fact, "[t]he governor may dissolve the pardon advisory board at any time." § 12-55.1-02. Thus, the advisory board's statutory application procedures do not impede the governor's unambiguous authority to act without consulting the board whatsoever.