

Tennessee Reprieve Power

The Constitution of the State of Tennessee vests Governor Lee with broad “power to grant reprieves and pardons, after conviction, except in cases of impeachment.” Tenn. Const. art. III, § 6. “It is a power and a duty entrusted to his judgment and discretion, which cannot be interfered with, and of which he cannot be relieved.” *State ex rel. Rowe v. Connors*, 166 Tenn. 393, 61 S.W.2d 471, 472 (1933).

The governor’s clemency powers are affirmed by statute: “The governor has power to grant reprieves, commutations and pardons in all criminal cases after conviction, except impeachment, subject to the regulations provided in this chapter.” Tenn. Code Ann. § 40-27-101 (West). The phrase “all criminal cases” implies that reprieves may be granted outside the death-penalty context, while the phrase “after conviction” implies that reprieves may be granted before or after sentencing, so long as the recipient has been convicted.

Tennessee, like many states, leaves the reprieve power unregulated. Whereas the governor must solicit a recommendation from the Board of Parole before commuting a sentence, § 40-27-104, and must provide reasons for granting pardons and commutations, § 40-27-107, no such requirements apply to granting reprieves. Further, the Board of Parole’s Executive Clemency Unit plays no role in processing applications for reprieves. This enables the governor to act swiftly in times of emergency or crisis.

The only procedural requirement applies to cases involving victims. Before making clemency known to the public in such cases, the governor must notify the attorney general and prosecuting attorney, who in turn notify the victim or victim’s representative. § 40-27-110. This provision, however, does not limit the governor’s unfettered power to grant reprieves in any case he chooses.