**17:60:05:12.  Grounds for recommending executive clemency.** The factors to be considered by the board in all hearings on applications for executive clemency may include the following:

 (1)  Substantial evidence indicates that the sentence is excessive or constitutes a miscarriage of justice;

 (2)  The applicant's innocence of the crime for which the applicant was convicted under South Dakota law has been proven by clear and convincing evidence;

 (3)  The applicant has shown remarkable rehabilitation;

 (4)  Substantial evidence indicates that the board should be in a position at the earliest possible time to deal with the applicant as a parolee under supervision;

 (5)  Review of the applicant's personal and family history; the applicant's attitude, character, capabilities, and habits; the nature and circumstances of the offense or offenses; and the effect the applicant's clemency will have on the victims of the crime and the community indicates that applicant has carried the stigma of the crime for a long enough period to justify its removal;

 (6)  The applicant wishes to pursue a professional career from which society can benefit, but a conviction prevents it; and

 (7)  The applicant's age and medical status is such that it is in the best interest of society that the applicant receive clemency.

 **Source:** 12 SDR 162, effective April 20, 1986; 33 SDR 43, effective September 18, 2006.

 **General Authority:** SDCL 24-13-7.

 **Law Implemented:** SDCL 24-14-1, 24-14-6.