

# Commutation of Hunter Biden

*by*

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In a June 5th interview with ABC, Biden stated he would not issue a pardon for his son, Hunter, if convicted on federal gun charges. Six days later, Hunter Biden was convicted on all counts with a sentencing date set for mid-July.

Although last September, and more recently, Biden said that he would not commute Hunter's sentence if convicted, the Whitehouse, after Hunter's conviction, has intimated that pardoning Hunter is still a possibility.

In past speeches and Whitehouse press conferences and release, Biden and the Whitehouse staff have continued playing semantics with critical issues. So far the terms commutation and pardon have been used with regard to Hunter and his sentence.

There are four terms that are often misunderstood and used interchangeably with regard to convicted felons.

- clemency
- commutation
- pardons
- parole

**Clemency** – This noun is a general term that implies the disposition of punishment, usually assigned by federal or state courts. The president has constitutional authority to grant clemency for federal convictions, while governors have authority for state convictions. Clemency is a broad term encompassing actions such as commutation, pardoning, parole, remissions, and reprieves.

**Commutation** – is the substitution of something for something else (Cambridge dictionary). The term typically addresses punishment and financial agreements. Under criminal law, commutation is the reduction of a criminal sentence while the convicted person is serving the sentence. It can be either total or partial. For example a felon's death sentence can be reduced to life in prison. Commutation can also be used to reduce a sentence, or a wrongful conviction.

**Pardons** – Pardons are the forgiveness of a crime(s). They absolve a person of guilt and from the consequences of a conviction. When a pardon is granted, the full rights of citizenship are restored and the individual regains the right to vote, own and use

firearms, hold public office, and serve on a jury. However, a pardon does not erase or expunge the conviction.

**Parole** – Parole is generally granted after a prisoner has served a portion of his/her sentence. It is conditional or provisional release from prison and comes with a variety of rules, conditions, and requirements that vary from state to state.

While US code and the laws of most states address nepotism with regard to hiring or appointing a relative to a job, there is little discussion, rules, or law regarding the clemency of a family member or close allies. So the question is, “Can presidents issue clemency for family members and/or close allies?”

The answer to this question is YES, and it has happened in recent years. The first president to do so was Bill Clinton when he pardoned his half-brother, Roger Clinton, for his 1985 cocaine distribution conviction.

In 2020 Trump pardoned his son-in-law’s father, Charles Kushner. Kushner was convicted of tax crimes, witness tampering, and violating campaign laws in 2003.

On June 11th, Hunter Biden was convicted of 3 federal firearms violations. Although a specific sentencing date has not been set, it typically takes place within 120 days of a verdict. Hunter Biden could face up to **25 years** in prison and a fine of up to **\$750,000**, but as a first-time offender, the sentence will probably be less than the maximum amount.

Hunter Biden’s legal problems are not over as he faces 9 other federal charges on tax related violations and conspiracy to defraud the US Government. The trial date for these charges has been postponed until September.

Now, in 2024, as president, Joe Biden is in a position to grant clemency to his son for 3 convictions for the firearms violations once the sentencing phase of the trial is completed.

It is not likely that Biden will act on any request for clemency until Hunter’s tax trial is over as Biden can issue clemency on the greater of the two sentencing phases. It would also be disastrous to Biden’s presidential re-election if he issues clemency for Hunter before the November election.

With regard to clemency, Biden has only two choices. He could commute Hunter’s sentence or he could pardon Hunter. With either choice, certain conditions must be

met. With commutation, Hunter must begin serving his sentence and cannot be challenging his conviction in court. Since he was convicted on 3 counts, each count would have to be commuted if he is to get out of prison. A commutation may include remission/release from financial obligations such as fines or restitution.

In all likelihood Hunter will not be granted a pardon since most pardons require a felon to have served a significant period of time or completed his/her sentence. While this would be a better choice for the Biden's it is not a realistic one unless Joe Biden is re-elected.

Meanwhile, Congress has the opportunity to amend the US Constitution and laws by restricting the president's ability to grant clemency for direct and indirect family members. Whether SCOTUS has any jurisdiction in making such a decision regarding such restriction would have to be adjudicated accordingly.

**For a free and democratic government to endure, it is necessary to assure that those in government serve the people equally and justly.**