

Criminal Rules of the Supreme Court of British Columbia

RULE 7

Applications for a Reduction in the Number of Years of Imprisonment Without Eligibility for Parole

General

- (1) This rule is made under s. 745.64(1) of the *Criminal Code*, and comes into force on June 1, 2026.
- (2) *The British Columbia Rules of Practice Respecting Reduction in the Number of Years of Imprisonment Without Eligibility for Parole*, SOR/97-569 are repealed.
- (3) This rule applies to all applications made under s. 745.6(1) of the *Criminal Code*, whether filed before or after this rule is in force.
- (4) The Chief Justice or Associate Chief Justice, or a judge designated under this rule, may at any time make any orders and give any directions that they consider necessary for the fair and efficient hearing and disposition of an application under s. 745.6, including, without limitation, orders and directions respecting the sufficiency of an application and the extension or reduction of time periods.

Application Materials

- (5) An applicant under s. 745.6(1) of the *Criminal Code* for a reduction in the number of years of imprisonment without eligibility for parole must file
 - (a) a notice of application in Form 8, which must include
 - (i) the applicant's full name and date of birth
 - (ii) the date of the offence in respect of which the application is made
 - (iii) the place of the conviction
 - (iv) the dates of the conviction and the sentencing
 - (v) the number of years of imprisonment without eligibility for parole imposed
 - (vi) the number of years of imprisonment served as at the date of the application, including the time spent in custody between the day on which the applicant was arrested and taken into custody in respect of the offence

in issue in the application and the date the sentence was imposed (s. 746 of the *Criminal Code*)

(vii) if the applicant was convicted of more than one murder, the reason why s. 745.6(2) of the *Criminal Code* does not apply to the application

(viii) the dates of the determination of any previous applications for a reduction in the number of years of imprisonment without eligibility for parole, and any directions given regarding subsequent applications

(ix) the name and address of the institution in which the applicant is currently detained

(x) the name and place of each institution in which the applicant has been detained since the time of the applicant's arrest for the offence that is the subject of the application, and, if known, the dates of entry into each of those institutions

(xi) any sentence, in addition to the sentence in respect of which the application is made, that the applicant is serving at the time of the application and the date and place of the imposition of that sentence, and the offence in respect of which the sentence was imposed

(xii) the grounds to be relied on in support of the application

(xiii) an outline of the evidence the applicant expects to rely on

(xiv) the relief sought, and

(xv) the applicant's address for service, and

(b) an affidavit of the applicant in Form 9 swearing or affirming that the facts stated in the application are true.

(6) The applicant must file the notice of application and affidavit in the criminal registry in the court location where the applicant was sentenced for the offence that is the subject of the application.

Service

(7) The applicant must serve a filed copy of the notice of application and affidavit on

(a) the Attorney General of British Columbia (B.C. Prosecution Service) either

- (i) by registered mail to Ministry of Attorney General, Legal Services Branch, PO Box 9290 STN PROV GOVT, 1001 Douglas Street, Victoria, BC, V8W 9J7, Attention: Duty Counsel or
 - (ii) by email to CLD-PSU.Victoria@gov.bc.ca
 - (b) the Commissioner of the Correctional Service of Canada either:
 - (i) by registered mail to 340 Laurier Avenue West, 9B-18, Ottawa, ON, K1A 0P9 or
 - (ii) by email to dojbcrimapps@justice.gc.ca, and
 - (c) the institutional head of the institution at which the applicant is detained.
- (8) If proof of service is required in a particular case, such proof may be given by an affidavit of the person who effected the service.

Judicial Screening

- (9) Upon receipt of a copy of the application, counsel for the Attorney General of British Columbia (Crown counsel) must forthwith request the designation of a judicial screening judge under s. 745.61(1) by letter to the Chief Justice or Associate Chief Justice, to be submitted through Supreme Court Scheduling in the location where the application was filed.
- (10) The Chief Justice or Associate Chief Justice will designate a judge to
- (a) determine whether the applicant is eligible to make an application according to the criteria in s. 745.6, and
 - (b) if the applicant is eligible, conduct the judicial screening process.

Case Management Conference for Judicial Screening Process

- (11) On the designation of a judicial screening judge, Supreme Court Scheduling will so notify the applicant through their address for service and Crown counsel, and will arrange a case management conference before the judicial screening judge at the earliest opportunity.
- (12) The case management conference with the judicial screening judge will address
- (a) whether there are any issues regarding the applicant's eligibility, and if there are, how eligibility will be determined, and

(b) if the applicant is eligible, matters relating to a fair and efficient judicial screening process under s. 745.61 of the *Criminal Code*, which may include

(i) directions regarding any written evidence the Attorney General wishes to present

(ii) directions regarding any additional written evidence the applicant wishes to present

(iii) directions regarding any report to be provided by the Correctional Service of Canada or other correctional authorities

(iv) whether it is necessary to order a parole eligibility report for the judicial screening process, and if it is, the timelines for filing

(v) the process for hearing any applications for production of records from the Correctional Service of Canada, and at what stage such applications will be heard, and

(vi) whether an in-court oral hearing will be held for the judicial screening process, and, if a hearing is to be held

(1) the date for the hearing

(2) how the applicant will attend the hearing, either in person or by videoconference

(3) directions regarding the form of evidence the parties may tender at the hearing, including whether there will be cross-examination on the parole eligibility report, and

(4) any directions regarding written submissions.

(13) Crown counsel should obtain in advance of the case management conference the information necessary for them to address any matters pertaining to the Correctional Service of Canada. Alternatively, Crown counsel may arrange for counsel for the Correctional Service of Canada to appear at the case management conference to discuss those matters.

(14) Additional case management conferences may be held upon the request of a party or the direction of the Court.

(15) If the applicant is represented by counsel, the applicant is not required to attend a case management conference unless the applicant wishes to do so, in which case, the applicant will attend by videoconference unless the court otherwise orders.

(16) An applicant who is self-represented will attend a case management conference by videoconference unless the court otherwise orders.

Appearances by the Applicant

(17) If the applicant is to appear at a hearing in relation to the application, either in person or by videoconference, counsel for the applicant must prepare and file the necessary documents to facilitate the applicant's appearance. Crown counsel must prepare and file the necessary documents if the applicant is not represented by counsel.

Parole Eligibility Report

(18) At any stage after the first case management conference, the designated judge may order that a parole eligibility report be prepared in respect of the applicant, having regard to the matters referred to in s. 745.63(1).

(19) A parole eligibility report will be prepared by a person designated by the Commissioner of the Correctional Service of Canada and will contain, where available

- (a) a summary of the applicant's social and family background
- (b) a summary of the applicant's security classification and discipline evaluations
- (c) a summary of the regular reports of the applicant's conduct
- (d) a summary of any psychological and psychiatric assessments that have been made of the applicant
- (e) any information relevant to a complete description of the applicant's character and conduct, and
- (f) any other information relevant to the issue of the parole eligibility of the applicant.

(20) The parole eligibility report must be filed in the applicable criminal registry in accordance with the direction of the judge who ordered the report.

(21) A party who wishes to cross-examine the author on any portion of the parole eligibility report must apply to the judge at a case management conference.

Judicial Screening Process

(22) If, at the case management conference described above, the judicial screening judge directs that an in-court oral hearing will be held for the judicial screening process, the hearing will take place in the court location where the application was filed, unless the court otherwise directs.

(23) The judicial screening judge will determine whether the application meets the applicable threshold in accordance with the process established by that judge after the case management conference.

(24) If the judicial screening judge determines that the application meets the applicable threshold, the application will proceed in accordance with the remainder of this rule.

The Application Process

(25) The application will be heard by a jury empanelled by an application judge designated under s. 745.61(5) by the Chief Justice or the Associate Chief Justice. The application judge may be the judge who conducted the judicial screening process.

(26) The application hearing will take place in the court location where the application was filed, unless the court otherwise directs.

(27) A case management conference will be held to promote a fair and efficient application process. Sub-rules (13)-(16) apply to this case management conference.

(28) In addition to any matters set out in sub-rule (12)(b) that may be applicable to the application process, a case management conference before the application hearing may address

- (a) the preparation of an agreed statement of facts relating to the offence to which the application relates
- (b) the form of any other evidence to be tendered
- (c) whether and how information from victims of the offence will be received in accordance with s. 745.63(1)(d) & (1.1)
- (d) how the applicant will attend the jury selection and the hearing, either in person or by videoconference
- (e) dates for the jury selection and the hearing, and

(f) any other issues necessary for a fair and efficient hearing.

(29) The jury will be empanelled in accordance with Part XX of the *Criminal Code*, with any modifications that the circumstances require.

(30) At the hearing of the application, the applicant will present evidence first and may, if the judge so permits, present rebuttal evidence after the evidence of the Attorney General is presented.

(31) After the presentation of the evidence at the hearing, the applicant, followed by the Attorney General, will address the jury and the applicant may reply after the address of the Attorney General.