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DEPARTMENT OF JUSTICE
CIVIL DIVISION
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May 23, 2023
OPINION 23-0002

Honorable R. Kyle Ardoin
Secretary of State
Louisiana Department of State
P.O. Box 94125
Baton Rouge, LA 70804-9125

73 NOTARIES – Appointments & Qualifications

La. Const. art. I, § 10.1	La. R.S. 35:191
La. Const. art. IV, §5	La. R.S. 35:391
La. R.S. 35:15	La. R.S. 35:602
La. R.S. 35:16	La. R.S. 15:572

The "pardon" referred to in La. R.S. 35:15, 16, 191, 391, and 602 means a governor's pardon or presidential pardon.

Dear Secretary Ardoin:

This office is in receipt of your letter on behalf of the Louisiana Department of State requesting an opinion of the Attorney General. You ask whether a notary whose notarial commission is suspended because of a felony conviction may have his commission restored by a first offender pardon, or whether a governor's pardon is needed; and, if a governor's pardon is not needed, how many years must pass before a first offender pardon will restore the notary's ability to have his commission restored.

Your request specifically references La. R.S. 35:15 concerning revocation or suspension of a notarial commission or the authority to exercise notarial powers by reason of a felony conviction. We find that there are several statutory provisions—La. R.S. 35:15, 16, 191, 391, and 602—pertaining to notaries that refer to a convicted felon's disqualification for appointment, commission, or exercise of notarial functions, except where a pardon has been issued. None of the foregoing statutory provisions specify that a governor's pardon, as distinguished from a first offender pardon, is required to restore or reinstate the notary's authority.

Pardons by the governor and automatic first offender pardons are provided for in La. Const. art. IV, §5, as well as La. R.S. 15:572. While authority for both pardons is found in La. Const. art. IV, § 5(E)(1) and La. R.S. 15:572, the governor's pardon is full and complete while the automatic first offender pardon is limited. *State v. Easter*, 2014-1630 (La. App. 1 Cir. 4/24/15), 170 So. 3d 1051, 1058, *writ denied*, 2015-0979 (La. 5/20/16), 191 So. 3d 1063. The law of this State has never recognized the automatic first offender pardon as being a full pardon restoring the pardoned individual to the status of innocence. *Touchet v. Broussard*, 2010-0380 (La. 3/3/10), 31 So. 3d 986, 994. On the contrary, the law has consistently distinguished between the full and complete scope of the governor's pardon and the limited scope of the first offender pardon. *Id.*¹

¹ See also *State v. Riser*, 30,201 (La. App. 2 Cir. 12/12/97) for a good discussion of a governor's pardon and a first offender pardon.

[T]he paramount consideration in statutory construction is ascertainment of the legislative intent and the reason or reasons which prompted the Legislature to enact the law. *M.J. Farms, Ltd. v. Exxon Mobil Corp.*, 07–2371 (La.7/1/08), 998 So.2d 16, 27, citing *State v. Johnson*, 03–2993 (La.10/19/04), 884 So.2d 568, 575. The starting point for the interpretation of any statute is the language of the statute itself. *Dejoie v. Medley*, 2008–2223 (La.5/5/09), 9 So.3d 826, 829. In the event the language of a statute is susceptible of different meanings, the interpretation must best conform to the purpose of the law. La. C.C. art. 10. When analyzing legislative history, it is presumed the Legislature's actions in crafting a law were knowing and intentional. *M.J. Farms, Ltd.*, 2007–2371 at pp. 13–14, 998 So.2d at 27. It must be assumed the Legislature was aware of existing laws on the same subject, as well as established principles of statutory construction and the effect of their legislative acts. *Id.*

Application of these principles leads us to conclude that the references to a pardon in La. R.S. 35:15, 16, 191, 391, and 602 mean a governor's (or presidential) pardon. Because we conclude that an appointment of notary is an appointment of honor, trust, or profit, La. Const. art. I, §10.1 disqualifies a convicted felon from the appointment or commission of notary or ex officio notary or from the exercise of notarial functions, except where a governor's (or presidential) pardon has been issued. An interpretation that the various notarial statutory provisions only require a first offender's pardon is inconsistent with La. Const. art. I, §10.1. Statutory interpretation rules favor interpretations that harmonize and uphold legislative enactments. Furthermore, all the statutory provisions discussed herein with the exception of La. R.S. 35:391 were adopted by the Legislature after either La. Const. art. I, §10 or 10.1 were in effect.² Whereas it is presumed that the Legislature was aware of existing law, we are further guided toward the conclusion that the references to a pardon mean a governor's (or presidential) pardon.

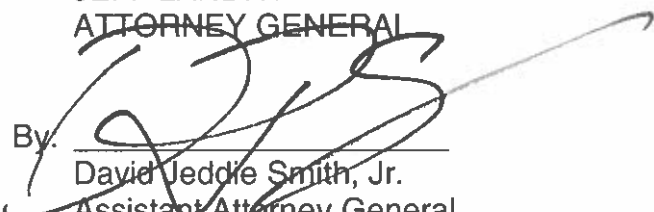
In conclusion, it is the opinion of this office that the appointment of a notary is an appointment of honor, trust or profit and that the requirement of a "pardon" contained in La. R.S. 35:15, 16, 191, 391, and 602 means a governor's pardon or presidential pardon as described in La. Const. art. I, §10.1. Further, we conclude that the Legislature has in these statutory provisions applicable to notaries affirmatively required a governor's pardon of any person convicted of a felony, irrespective of the passage of any time period following the service of sentence for the conviction, to be appointed a notary, receive and hold a commission as notary, and exercise notarial functions.

² For reference, we note that La. Const. art I, § 10.1 was added in 2018 following the Louisiana Supreme Court's ruling in *Shepherd v. Schedler*, No. 2015-1750 (La. 1/27/16), 209 So. 3d 752.

We trust that this opinion of the Attorney General adequately responds to your inquiry. However, if our office can be of further assistance, please do not hesitate to contact us.

Sincerely yours,

JEFF LANDRY
ATTORNEY GENERAL

By. 

David Jeddie Smith, Jr.
Assistant Attorney General