



Senate

General Assembly

File No. 731

January Session, 2011

Substitute Senate Bill No. 1151

Senate, May 3, 2011

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING SPECIAL PROVISIONAL PARDONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-130e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) For the purposes of this section and sections 31-51i, as amended
4 by this act, and 54-130a, as amended by this act:

5 (1) "Barrier" means a denial of employment or a license based on an
6 eligible offender's conviction of a crime without due consideration of
7 whether the nature of the crime bears a direct relationship to such
8 employment or license;

9 (2) "Eligible offender" means a person who has been convicted of a
10 crime or crimes in this state or another jurisdiction and who is a
11 resident of this state and is applying for a provisional pardon or
12 special provisional pardon or is under the jurisdiction of the Board of
13 Pardons and Paroles;

14 (3) "Employment" means any remunerative work, occupation or
15 vocation or any form of vocational training, but does not include
16 employment with a law enforcement agency;

17 (4) "Forfeiture" means a disqualification or ineligibility for
18 employment or a license by reason of law based on an eligible
19 offender's conviction of a crime;

20 (5) "License" means any license, permit, certificate or registration
21 that is required to be issued by the state or any of its agencies to
22 pursue, practice or engage in an occupation, trade, vocation, profession
23 or business; and

24 (6) "Provisional pardon" or "special provisional pardon" means a
25 form of relief from barriers or forfeitures to employment or the
26 issuance of licenses granted to an eligible offender by the Board of
27 Pardons and Paroles pursuant to subsections (b) to [(i)] (j), inclusive, of
28 this section.

29 (b) The Board of Pardons and Paroles may issue a provisional
30 pardon or special provisional pardon to relieve an eligible offender of
31 barriers or forfeitures by reason of such person's conviction of the
32 crime or crimes specified in such provisional pardon or special
33 provisional pardon. Such provisional pardon or special provisional
34 pardon may be limited to one or more enumerated barriers or
35 forfeitures or may relieve the eligible offender of all barriers and
36 forfeitures. No provisional pardon or special provisional pardon shall
37 apply or be construed to apply to the right of such person to retain or
38 be eligible for public office.

39 (c) The Board of Pardons and Paroles may, in its discretion, issue a
40 provisional pardon or special provisional pardon to an eligible
41 offender upon verified application of such person. The board may
42 issue a provisional pardon or special provisional pardon at any time
43 after the sentencing of an eligible offender.

44 (d) The board shall not issue a provisional pardon or special

45 provisional pardon unless the board is satisfied that:

46 (1) The person to whom the provisional pardon or special
47 provisional pardon is to be issued is an eligible offender;

48 (2) The relief to be granted by the provisional pardon or special
49 provisional pardon may promote the public policy of rehabilitation of
50 ex-offenders through employment; and

51 (3) The relief to be granted by the provisional pardon or special
52 provisional pardon is consistent with the public interest in public
53 safety and the protection of property.

54 (e) In accordance with the provisions of subsection (d) of this
55 section, the board may limit the applicability of the provisional pardon
56 or special provisional pardon to specified types of employment or
57 licenses for which the eligible offender is otherwise qualified.

58 (f) The board may, for the purpose of determining whether such
59 provisional pardon or special provisional pardon should be issued,
60 request its staff to conduct an investigation of the applicant and submit
61 to the board a report of the investigation. Any written report
62 submitted to the board pursuant to this subsection shall be confidential
63 and not disclosed except where required or permitted by any
64 provision of the general statutes or upon specific authorization of the
65 board.

66 (g) If a provisional pardon or special provisional pardon is issued
67 by the board while an eligible offender is on probation or parole, the
68 provisional pardon or special provisional pardon shall be deemed to
69 be temporary until the person completes such person's period of
70 probation or parole. During the period that such provisional pardon or
71 special provisional pardon is temporary, the board may revoke such
72 provisional pardon or special provisional pardon for violation of the
73 conditions of such person's probation or parole.

74 (h) The board may at any time issue a new provisional pardon or
75 special provisional pardon to enlarge the relief previously granted, and

76 the provisions of subsections (b) to [(f)] (j), inclusive, of this section
77 shall apply to the issuance of any new provisional pardon or special
78 provisional pardon.

79 (i) The application for a provisional pardon or special provisional
80 pardon, the report of an investigation conducted pursuant to
81 subsection (f) of this section, the provisional pardon or special
82 provisional pardon and the revocation of a provisional pardon or
83 special provisional pardon shall be in such form and contain such
84 information as the Board of Pardons and Paroles shall prescribe.

85 (j) Notwithstanding the provisions of section 54-130a, as amended
86 by this act, concerning the application for and granting of an absolute
87 pardon, any special provisional pardon issued by the board to a
88 person pursuant to this section shall, unless revoked sooner pursuant
89 to subsection (g) of this section, become an absolute pardon by
90 operation of law three years after issuance if such special provisional
91 pardon was issued with respect to a conviction of a misdemeanor or
92 five years after issuance if such special provisional pardon was issued
93 with respect to a conviction of a felony, provided such person has not
94 been convicted of any crime during such time period.

95 Sec. 2. Section 54-130a of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2011*):

97 (a) Jurisdiction over the granting of, and the authority to grant,
98 commutations of punishment or releases, conditioned or absolute, in
99 the case of any person convicted of any offense against the state and
100 commutations from the penalty of death shall be vested in the Board of
101 Pardons and Paroles.

102 (b) The board shall have authority to grant pardons, conditioned,
103 provisional or absolute, for any offense against the state at any time
104 after the imposition and before or after the service of any sentence.

105 (c) The board may accept an application for a pardon three years
106 after an applicant's conviction of a misdemeanor or violation and five

107 years after an applicant's conviction of a felony, except that the board,
108 upon a finding of extraordinary circumstances, may accept an
109 application for a pardon prior to such dates.

110 (d) Whenever the board grants an absolute pardon to any person or
111 a special provisional pardon becomes an absolute pardon by operation
112 of law pursuant to subsection (j) of section 54-130e, as amended by this
113 act, the board shall cause notification of such pardon to be made in
114 writing to the clerk of the court in which such person was convicted, or
115 the Office of the Chief Court Administrator if such person was
116 convicted in the Court of Common Pleas, the Circuit Court, a
117 municipal court, or a trial justice court.

118 (e) Whenever the board grants a provisional pardon or special
119 provisional pardon to any person, the board shall cause notification of
120 such pardon to be made in writing to the clerk of the court in which
121 such person was convicted. The granting of a provisional pardon or
122 special provisional pardon does not entitle such person to erasure of
123 the record of the conviction of the offense or relieve such person from
124 disclosing the existence of such conviction as may be required.

125 (f) In the case of any person convicted of a violation for which a
126 sentence to a term of imprisonment may be imposed, the board shall
127 have authority to grant a pardon, conditioned, provisional or absolute,
128 in the same manner as in the case of any person convicted of an offense
129 against the state.

130 Sec. 3. Subsections (d) and (e) of section 31-51i of the general
131 statutes are repealed and the following is substituted in lieu thereof
132 (*Effective October 1, 2011*):

133 (d) No employer or an employer's agent, representative or designee
134 shall deny employment to a prospective employee solely on the basis
135 that the prospective employee had a prior arrest, criminal charge or
136 conviction, the records of which have been erased pursuant to section
137 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
138 conviction for which the prospective employee has received a

139 provisional pardon or special provisional pardon pursuant to section
140 54-130a, as amended by this act.

141 (e) No employer or an employer's agent, representative or designee
142 shall discharge, or cause to be discharged, or in any manner
143 discriminate against, any employee solely on the basis that the
144 employee had, prior to being employed by such employer, an arrest,
145 criminal charge or conviction, the records of which have been erased
146 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
147 had, prior to being employed by such employer, a prior conviction for
148 which the employee has received a provisional pardon or special
149 provisional pardon pursuant to section 54-130a, as amended by this
150 act.

This act shall take effect as follows and shall amend the following sections:		
Section	October 1, 2011	54-130e
Sec. 2	October 1, 2011	54-130a
Sec. 3	October 1, 2011	31-51i(d) and (e)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which allows a provisional pardon to become an absolute pardon after three years of issuance, has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1151*****AN ACT CONCERNING SPECIAL PROVISIONAL PARDONS.*****SUMMARY:**

This bill creates special provisional pardons and authorizes the Board of Pardons and Paroles to issue them. Special provisional pardons are subject to the same rules as provisional pardons, but they automatically become absolute pardons if the person is not convicted of another crime during the:

1. three years after the board issues the special provisional pardon for a misdemeanor conviction or
2. five years after the board issues the special provisional pardon for a felony conviction.

As when the board grants an absolute pardon, the bill requires the board to notify the appropriate court clerk or Office of Chief Court Administrator when a special provisional pardon becomes an absolute pardon.

EFFECTIVE DATE: October 1, 2011

RULES FOR SPECIAL PROVISIONAL PARDONS

The bill applies the same rules and procedures to special provisional pardons as currently apply to provisional pardons.

Removing Barriers and Forfeitures

As with a provisional pardon, the bill authorizes a special provisional pardon to remove certain barriers or forfeitures to offenders obtaining employment or an occupational license due to the conviction of crimes named in the provisional pardon. By law, a

“barrier” is the denial of employment or a license because of a criminal conviction without considering whether the nature of the crime bears a direct relationship to the employment or license. A “forfeiture” is a disqualification or ineligibility for employment or a license by reason of law based on the offender’s criminal conviction.

A provisional or special provisional pardon can apply to all of the eligible barriers or forfeitures or it can specify particular ones. A provisional or special provisional pardon can specify types of employment or licenses for which the offender is otherwise qualified. But they do not apply to the right to hold or be eligible for public office.

Issuing a Special Provisional Pardon

As with a provisional pardon, the bill allows the board to issue a special provisional pardon any time after sentencing to a person who applies for one or who is under the board’s jurisdiction if (1) the person was convicted of a crime in Connecticut or another jurisdiction and resides in the state and (2) the relief in the provisional pardon may promote the public policy of rehabilitating ex-offenders through employment and is consistent with the public’s interest in safety and protecting property.

Additionally, as with a provisional pardon, the board:

1. can ask its staff to conduct investigations and report to the board;
2. must provide written notice to the clerk of the court where the person was convicted when it grants a provisional or special provisional pardon (which does not erase the conviction record and requires the person to disclose the conviction if required); and
3. can issue a new provisional or special provisional pardon to enlarge the relief granted.

Offenders on Probation or Parole

As with a provisional pardon, the bill makes a special provisional pardon temporary any time the offender is on probation or parole and allows the board to revoke it for a probation or parole violation. The bill specifies that a special provisional pardon cannot become an absolute pardon if it is revoked under this provision.

Employment Protections

As with a provisional pardon, the bill prohibits employers from denying employment to a prospective employee or discharging or discriminating against an employee solely on the basis of a conviction that occurred before his or her employment for which the person received a special provisional pardon.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/14/2011)