



General Assembly

February Session, 2012

**Raised Bill No. 453**

LCO No. 2555

\*02555\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING CERTIFICATES OF RELIEF FROM BARRIERS  
RESULTING FROM CONVICTION OF A CRIME.**

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

1 Section 1. Section 54-130a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) Jurisdiction over the granting of, and the authority to grant,  
4 commutations of punishment or releases, conditioned or absolute, in  
5 the case of any person convicted of any offense against the state and  
6 commutations from the penalty of death shall be vested in the Board of  
7 Pardons and Paroles.

8 (b) The board shall have authority to grant pardons, conditioned [,  
9 provisional] or absolute, or Certificates of Relief from Barriers for any  
10 offense against the state at any time after the imposition and before or  
11 after the service of any sentence.

12 (c) The board may accept an application for a pardon three years  
13 after an applicant's conviction of a misdemeanor or violation and five  
14 years after an applicant's conviction of a felony, except that the board,

15 upon a finding of extraordinary circumstances, may accept an  
16 application for a pardon prior to such dates.

17 (d) Whenever the board grants an absolute pardon to any person,  
18 the board shall cause notification of such pardon to be made in writing  
19 to the clerk of the court in which such person was convicted, or the  
20 Office of the Chief Court Administrator if such person was convicted  
21 in the Court of Common Pleas, the Circuit Court, a municipal court, or  
22 a trial justice court.

23 (e) Whenever the board grants a [provisional pardon] Certificate of  
24 Relief from Barriers to any person, the board shall cause notification of  
25 such [pardon] certificate to be made in writing to the clerk of the court  
26 in which such person was convicted. The granting of a [provisional  
27 pardon] certificate does not entitle such person to erasure of the record  
28 of the conviction of the offense or relieve such person from disclosing  
29 the existence of such conviction as may be required.

30 (f) In the case of any person convicted of a violation for which a  
31 sentence to a term of imprisonment may be imposed, the board shall  
32 have authority to grant a pardon, conditioned [, provisional] or  
33 absolute, or a Certificate of Relief from Barriers in the same manner as  
34 in the case of any person convicted of an offense against the state.

35 Sec. 2. Section 54-130e of the general statutes is repealed and the  
36 following is substituted in lieu thereof (*Effective October 1, 2012*):

37 (a) For the purposes of this section and sections 8-45a, as amended  
38 by this act, 31-51i, as amended by this act, 46a-80, as amended by this  
39 act, and 54-130a, as amended by this act:

40 (1) "Barrier" means a denial of employment, [or] a license or public  
41 housing based on an eligible offender's conviction of a crime without  
42 due consideration of whether the nature of the crime bears a direct  
43 relationship to such employment, [or] license or public housing;

44 (2) "Direct relationship" means that the nature of criminal conduct

45 for which a person was convicted has a direct bearing on the person's  
46 fitness or ability to perform one or more of the duties or  
47 responsibilities necessarily related to the applicable employment,  
48 license or public housing.

49 [(2)] (3) "Eligible offender" means a person who has been convicted  
50 of a crime or crimes in this state or another jurisdiction and who is a  
51 resident of this state and is applying for a [provisional pardon]  
52 Certificate of Relief from Barriers or is under the jurisdiction of the  
53 Board of Pardons and Paroles;

54 [(3)] (4) "Employment" means any remunerative work, occupation  
55 or vocation or any form of vocational training, but does not include  
56 employment with a law enforcement agency;

57 [(4)] (5) "Forfeiture" means a disqualification or ineligibility for  
58 employment, [or] a license or public housing by reason of law based  
59 on an eligible offender's conviction of a crime;

60 [(5)] (6) "License" means any license, permit, certificate or  
61 registration that is required to be issued by the state or any of its  
62 agencies to pursue, practice or engage in an occupation, trade,  
63 vocation, profession or business; [and]

64 [(6) "Provisional pardon"] (7) "Certificate of Relief from Barriers"  
65 means a form of relief from barriers or forfeitures to employment, [or]  
66 the issuance of licenses and public housing granted to an eligible  
67 offender by the Board of Pardons and Paroles pursuant to [subsections  
68 (b) to (i), inclusive, of] this section;

69 (8) "Public agency" means the state, or any state or municipal  
70 department, agency, board or commission; and

71 (9) "Public housing" means housing established by a housing  
72 authority, as defined in section 8-39 and created under section 8-40.

73 (b) The Board of Pardons and Paroles may issue a [provisional

74 pardon] Certificate of Relief from Barriers to relieve an eligible  
75 offender of barriers or forfeitures by reason of such person's conviction  
76 of the crime or crimes specified in such [provisional pardon] certificate.  
77 Such [provisional pardon] certificate may be limited to one or more  
78 enumerated barriers or forfeitures or may relieve the eligible offender  
79 of all barriers and forfeitures. Such certificate shall be labeled by the  
80 issuing board or court as a "Certificate of Employability", "Certificate  
81 of Suitability of Licensure" or "Certificate of Suitability for Public  
82 Housing", or any combination thereof deemed appropriate by the  
83 issuing board or court. No [provisional pardon] certificate shall apply  
84 or be construed to apply to the right of such person to retain or be  
85 eligible for public office.

86 (c) The Board of Pardons and Paroles may, in its discretion, issue a  
87 [provisional pardon] Certificate of Relief from Barriers to an eligible  
88 offender upon verified application of such person. The board may  
89 issue a [provisional pardon] certificate at any time after the sentencing  
90 of an eligible offender, including, but not limited to, any time prior to  
91 the eligible offender's date of release from the custody of the  
92 Commissioner of Correction, probation or parole. Such certificate may  
93 be issued by a pardon panel of the board or a parole release panel of  
94 the board.

95 (d) The board shall not issue a [provisional pardon] certificate  
96 unless the board is satisfied that:

97 (1) The person to whom the [provisional pardon] certificate is to be  
98 issued is an eligible offender;

99 (2) The relief to be granted by the [provisional pardon] certificate  
100 may promote the public policy of rehabilitation of ex-offenders  
101 through employment and access to affordable housing; and

102 (3) The relief to be granted by the [provisional pardon] certificate is  
103 consistent with the public interest in public safety, the safety of any  
104 victim of the offense and the protection of property.

105 (e) In accordance with the provisions of subsection (d) of this  
106 section, the board may limit the applicability of the [provisional  
107 pardon] certificate to specified types of employment, [or licenses]  
108 licensure or public housing for which the eligible offender is otherwise  
109 qualified.

110 (f) The board may, for the purpose of determining whether such  
111 [provisional pardon] certificate should be issued, request its staff to  
112 conduct an investigation of the applicant and submit to the board a  
113 report of the investigation. Any written report submitted to the board  
114 pursuant to this subsection shall be confidential and shall not be  
115 disclosed except to the applicant and where required or permitted by  
116 any provision of the general statutes or upon specific authorization of  
117 the board.

118 (g) If a [provisional pardon] certificate is issued by the board [while  
119 an eligible offender is on probation or parole, the provisional pardon]  
120 or the superior court pursuant to this section before an eligible  
121 offender has completed service of the offender's term of incarceration,  
122 probation or parole, or any combination thereof, the certificate shall be  
123 deemed to be temporary until the [person] eligible offender completes  
124 such [person's period of] eligible offender's term of incarceration,  
125 probation or parole. During the period that such [provisional pardon]  
126 certificate is temporary, the board may revoke such [provisional  
127 pardon] certificate for violation of the conditions of such person's  
128 probation or parole. After the eligible offender completes such  
129 offender's term of incarceration, probation or parole, the temporary  
130 certificate shall become permanent.

131 (h) The board may at any time issue a new [provisional pardon]  
132 certificate to enlarge the relief previously granted, and the provisions  
133 of subsections (b) to (f), inclusive, of this section shall apply to the  
134 issuance of any new [provisional pardon] certificate.

135 (i) The application for a [provisional pardon] certificate, the report  
136 of an investigation conducted pursuant to subsection (f) of this section,

137 the [provisional pardon] certificate and the revocation of a [provisional  
138 pardon] certificate shall be in such form and contain such information  
139 as the Board of Pardons and Paroles shall prescribe.

140 (j) The superior court may, in its discretion, issue a Certificate of  
141 Relief from Barriers to an eligible offender for a conviction that was  
142 ordered in such court if the court (1) imposed a sentence that did not  
143 require incarceration immediately after sentencing, or (2) imposed a  
144 sentence of incarceration of less than two years. The court may issue  
145 the certificate at the time of sentencing or at any time thereafter during  
146 an offender's period of probation.

147 (k) A certificate shall not be issued by the court unless the court  
148 finds that:

149 (1) The relief to be granted by the certificate may promote the public  
150 policy of rehabilitation of ex-offenders through employment and  
151 access to affordable housing; and

152 (2) The relief to be granted by the certificate is consistent with the  
153 public interest in public safety, the safety of any victim of the offense,  
154 and the protection of property.

155 (l) The court may, for the purpose of determining whether such  
156 certificate should be issued, request the Court Support Services  
157 Division of the Judicial Department to conduct an investigation of the  
158 applicant and submit to the court a report of the investigation. In  
159 conducting the investigation, the division shall seek input from any  
160 victim of the offense. Any written report submitted to the court  
161 pursuant to this subsection shall be confidential and shall not be  
162 disclosed except to the applicant and where required or permitted by  
163 any provision of the general statutes or upon specific authorization of  
164 the court.

165 (m) Upon petition by an eligible offender, any court that has issued  
166 a Certificate of Relief from Barriers may at any time enlarge the relief

167 previously granted, and the provisions of subsections (j) to (l),  
168 inclusive, of this section shall apply to the issuance of any such new  
169 certificate.

170 (n) If the court issues a certificate under this section, the court shall  
171 immediately file a copy of the certificate with the Board of Pardons  
172 and Paroles.

173 (o) If a temporary certificate issued under this section is revoked,  
174 barriers and forfeitures thereby relieved shall be reinstated as of the  
175 date upon which the person to whom the certificate was issued  
176 receives written notice of the revocation. Any such person shall  
177 surrender the certificate to the issuing court or the Board of Pardons  
178 and Paroles upon receipt of the notice.

179 (p) Not later than October 1, 2013, the board and any court that  
180 received an application or petition for a certificate or that issued a  
181 certificate during the prior year shall submit to the Office of Policy and  
182 Management, data, in such form as the office may prescribe, the  
183 number of applications or petitions received, the number of  
184 applications or petitions denied, and the number of applications or  
185 petitions granted. The board and any such court shall submit such  
186 report every six months thereafter. Not later than January 1, 2014, and  
187 every six months thereafter, the Sentencing Commission shall post  
188 such data on its Internet web site.

189 (q) The Connecticut Sentencing Commission, or its designee, shall  
190 evaluate the effectiveness of such certificates at promoting the public  
191 policy of rehabilitating ex-offenders consistent with the public interest  
192 in public safety, the safety of crime victims and the protection of  
193 property. Such evaluation shall continue for a period of three years  
194 from October 1, 2012. The commission shall report to the joint standing  
195 committee of the General Assembly having cognizance of matters  
196 relating to the judiciary not later than January 15, 2014, January 15,  
197 2015, and January 1, 2016, on the effectiveness of such certificates at  
198 promoting such public policy and public interest. This report shall

199 include recommendations, if any, for amendments to the general  
200 statutes governing such certificates in order to promote such public  
201 policy and public interest.

202 Sec. 3. Subdivisions (d) and (e) of section 31-51i of the general  
203 statutes are repealed and the following is substituted in lieu thereof  
204 (*Effective October 1, 2012*):

205 (d) No employer or an employer's agent, representative or designee  
206 shall deny employment to a prospective employee solely on the basis  
207 that the prospective employee had a prior arrest, criminal charge or  
208 conviction, the records of which have been erased pursuant to section  
209 46b-146, 54-76o or 54-142a or that the prospective employee had a prior  
210 conviction for which the prospective employee has received a  
211 [provisional pardon] Certificate of Relief from Barriers pursuant to  
212 section 54-130a, as amended by this act.

213 (e) No employer or an employer's agent, representative or designee  
214 shall discharge, or cause to be discharged, or in any manner  
215 discriminate against, any employee solely on the basis that the  
216 employee had, prior to being employed by such employer, an arrest,  
217 criminal charge or conviction, the records of which have been erased  
218 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
219 had, prior to being employed by such employer, a prior conviction for  
220 which the employee has received a [provisional pardon] Certificate of  
221 Relief from Barriers pursuant to section 54-130a, as amended by this  
222 act.

223 Sec. 4. Subsection (c) of section 46a-80 of the general statutes is  
224 repealed and the following is substituted in lieu thereof (*Effective*  
225 *October 1, 2012*):

226 (c) A person may be denied employment by the state or any of its  
227 agencies, or a person may be denied a license, permit, certificate or  
228 registration to pursue, practice or engage in an occupation, trade,  
229 vocation, profession or business by reason of the prior conviction of a

230 crime if after considering (1) the nature of the crime and its  
231 relationship to the job for which the person has applied; (2)  
232 information pertaining to the degree of rehabilitation of the convicted  
233 person; and (3) the time elapsed since the conviction or release, the  
234 state [ ] or any of its agencies determines that the applicant is not  
235 suitable for the position of employment sought or the specific  
236 occupation, trade, vocation, profession or business for which the  
237 license, permit, certificate or registration is sought. An application may  
238 not be denied under this subsection by reason of the prior conviction  
239 of a crime unless there is a direct relationship between the conviction  
240 and the specific employment, license, permit, certificate or registration  
241 sought by the applicant. In making a determination under this  
242 subsection, the state or any of its agencies shall give consideration to a  
243 Certificate of Relief from Barriers issued under section 54-130e, as  
244 amended by this act, and such certificate shall be deemed to  
245 demonstrate presumed eligibility that such applicant is suitable for the  
246 employment, license, permit, certificate or registration specified in the  
247 certificate.

248 Sec. 5. Section 8-45a of the general statutes is repealed and the  
249 following is substituted in lieu thereof (*Effective October 1, 2012*):

250 A housing authority, as defined in subsection (b) of section 8-39, in  
251 determining eligibility for the rental of public housing units may  
252 establish criteria and consider relevant information concerning (1) an  
253 applicant's or any proposed occupant's history of criminal activity  
254 involving: (A) Crimes of physical violence to persons or property, (B)  
255 crimes involving the illegal manufacture, sale, distribution or use of, or  
256 possession with intent to manufacture, sell, use or distribute, a  
257 controlled substance, as defined in section 21a-240, or (C) other  
258 criminal acts which would adversely affect the health, safety or welfare  
259 of other tenants, (2) an applicant's or any proposed occupant's abuse,  
260 or pattern of abuse, of alcohol when the housing authority has  
261 reasonable cause to believe that such applicant's or proposed  
262 occupant's abuse, or pattern of abuse, of alcohol may interfere with the

263 health, safety or right to peaceful enjoyment of the premises by other  
264 residents, and (3) an applicant or any proposed occupant who is  
265 subject to a lifetime registration requirement under section 54-252 on  
266 account of being convicted or found not guilty by reason of mental  
267 disease or defect of a sexually violent offense. In evaluating any such  
268 information, the housing authority shall give consideration to the time,  
269 nature and extent of the applicant's or proposed occupant's conduct  
270 and to factors which might indicate a reasonable probability of  
271 favorable future conduct such as evidence of rehabilitation and  
272 evidence of the willingness of the applicant, the applicant's family or  
273 the proposed occupant to participate in social service or other  
274 appropriate counseling programs and the availability of such  
275 programs. In making a determination under this section, the housing  
276 authority shall give consideration to a Certificate of Relief from  
277 Barriers issued under section 54-130e, as amended by this act, and such  
278 certificate shall be deemed to demonstrate presumed eligibility that the  
279 applicant or occupant, as the case may be, is suitable for such housing,  
280 except as provided by federal law.

281 Sec. 6. Subdivision (2) of subsection (b) of section 19a-491c of the  
282 2012 supplement to the general statutes is repealed and the following  
283 is substituted in lieu thereof (*Effective October 1, 2012*):

284 (2) The Department of Public Health shall develop a plan to  
285 implement the criminal history and patient abuse background search  
286 program, in accordance with this section. In developing such plan, the  
287 department shall (A) consult with the Commissioners of Emergency  
288 Services and Public Protection, Developmental Services, Mental Health  
289 and Addiction Services, Social Services and Consumer Protection, or  
290 their designees, the State Long-Term Care Ombudsman, or a designee,  
291 the chairperson for the Board of Pardons and Paroles, or a designee, a  
292 representative of each category of long-term care facility and  
293 representatives from any other agency or organization the  
294 Commissioner of Public Health deems appropriate, (B) evaluate factors  
295 including, but not limited to, the administrative and fiscal impact of

296 components of the program on state agencies and long-term care  
 297 facilities, background check procedures currently used by long-term  
 298 care facilities, federal requirements pursuant to Section 6201 of the  
 299 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
 300 from time to time, and the effect of full and provisional pardons, and  
 301 Certificates of Relief from Barriers issued under section 54-130e, as  
 302 amended by this act, on employment, and (C) outline (i) an integrated  
 303 process with the Department of Public Safety to cross-check and  
 304 periodically update criminal information collected in criminal  
 305 databases, (ii) a process by which individuals with disqualifying  
 306 offenses can apply for a waiver, and (iii) the structure of an Internet-  
 307 based portal to streamline the criminal history and patient abuse  
 308 background search program. The Department of Public Health shall  
 309 submit such plan, including a recommendation as to whether  
 310 homemaker-companion agencies should be included in the scope of  
 311 the background search program, to the joint standing committees of  
 312 the General Assembly having cognizance of matters relating to aging,  
 313 appropriations and the budgets of state agencies, and public health, in  
 314 accordance with the provisions of section 11-4a, not later than  
 315 February 1, 2012.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	54-130a
Sec. 2	<i>October 1, 2012</i>	54-130e
Sec. 3	<i>October 1, 2012</i>	31-51i(d) and (e)
Sec. 4	<i>October 1, 2012</i>	46a-80(c)
Sec. 5	<i>October 1, 2012</i>	8-45a
Sec. 6	<i>October 1, 2012</i>	19a-491c(b)(2)

**Statement of Purpose:**

To adopt the recommendations of the Connecticut Sentencing Commission regarding relief from barriers to employment, licensure and public housing for persons whose eligibility is limited due to prior conviction of a crime.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*