



General Assembly

Substitute Bill No. 453

February Session, 2012

* SB00453JUD__040212__ *

**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 Section 54-130a of the general statutes is repealed and the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 in
34 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 or petitioning for a [provisional
52 pardon] certificate of relief from barriers or is under the jurisdiction of
53 the 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 or public housing granted to an eligible
67 offender by the Board of Pardons and Paroles or the Superior Court
68 pursuant to [subsections (b) to (i), inclusive, of] this section; and

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

71 (b) The Board of Pardons and Paroles, or the Superior Court
72 pursuant to subsection (j) of this section, may issue a [provisional
73 pardon] certificate of relief from barriers to relieve an eligible offender
74 of barriers or forfeitures by reason of such person's conviction of the
75 crime or crimes specified in such [provisional pardon] certificate. Such
76 [provisional pardon] certificate may be limited to one or more
77 enumerated barriers or forfeitures or may relieve the eligible offender
78 of all barriers and forfeitures. Such certificate shall be labeled by the
79 issuing board or court as a "Certificate of Employability", "Certificate

80 of Suitability of Licensure" or "Certificate of Suitability for Public
81 Housing", or any combination thereof deemed appropriate by the
82 issuing board or court. No [provisional pardon] certificate shall apply
83 or be construed to apply to the right of such person to retain or be
84 eligible for public office.

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

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

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

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

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

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

109 (f) The board may, for the purpose of determining whether such

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

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

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

134 (i) The application for a [provisional pardon] certificate, the report
135 of an investigation conducted pursuant to subsection (f) of this section,
136 the [provisional pardon] certificate and the revocation of a [provisional
137 pardon] certificate shall be in such form and contain such information
138 as the Board of Pardons and Paroles shall prescribe.

139 (j) The Superior Court may, in its discretion, issue a certificate of
140 relief from barriers, in accordance with subsections (b) and (g) of this
141 section, to an eligible offender for a judgment of conviction that was

142 entered 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 any such investigation, the division shall seek input from
160 any 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 the person to whom the certificate was issued receives written
176 notice of the revocation. Any such person shall surrender the certificate
177 to the issuing board or court upon receipt of the notice.

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

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 15, 2016, on the effectiveness of such certificates at
198 promoting such public policy and public interest. Such 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. Subsections (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 applicant may

238 not be denied employment or a license, permit, certificate or
239 registration pursuant to this subsection by reason of the applicant's
240 prior conviction of a crime unless there is a direct relationship between
241 the conviction and the specific employment, license, permit, certificate
242 or registration sought by the applicant. In making a determination
243 under this subsection, the state or any of its agencies shall give
244 consideration to a certificate of relief from barriers issued under
245 section 54-130e, as amended by this act, and such certificate of relief
246 from barriers shall be deemed to demonstrate presumed eligibility that
247 such applicant is suitable for the employment, license, permit,
248 certificate or registration specified in the certificate of relief from
249 barriers.

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

252 A housing authority, as defined in subsection (b) of section 8-39, in
253 determining eligibility for the rental of public housing units may
254 establish criteria and consider relevant information concerning (1) an
255 applicant's or any proposed occupant's history of criminal activity
256 involving: (A) Crimes of physical violence to persons or property, (B)
257 crimes involving the illegal manufacture, sale, distribution or use of, or
258 possession with intent to manufacture, sell, use or distribute, a
259 controlled substance, as defined in section 21a-240, or (C) other
260 criminal acts which would adversely affect the health, safety or welfare
261 of other tenants, (2) an applicant's or any proposed occupant's abuse,
262 or pattern of abuse, of alcohol when the housing authority has
263 reasonable cause to believe that such applicant's or proposed
264 occupant's abuse, or pattern of abuse, of alcohol may interfere with the
265 health, safety or right to peaceful enjoyment of the premises by other
266 residents, and (3) an applicant or any proposed occupant who is
267 subject to a lifetime registration requirement under section 54-252 on
268 account of being convicted or found not guilty by reason of mental
269 disease or defect of a sexually violent offense. In evaluating any such
270 information, the housing authority shall give consideration to the time,
271 nature and extent of the applicant's or proposed occupant's conduct

272 and to factors which might indicate a reasonable probability of
273 favorable future conduct such as evidence of rehabilitation and
274 evidence of the willingness of the applicant, the applicant's family or
275 the proposed occupant to participate in social service or other
276 appropriate counseling programs and the availability of such
277 programs. In making a determination under this section, the housing
278 authority shall give consideration to a certificate of relief from barriers
279 issued under section 54-130e, as amended by this act, except as
280 required 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)

JUD *Joint Favorable Subst.*