



**Connecticut
Sentencing
Commission**

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TESTIMONY IN SUPPORT OF HB 6582

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

By Andrew J. Clark

**Acting Executive Director, Connecticut Sentencing Commission
& Attorney Sarah Russell**

**Member: Certificates of the Rehabilitation Working Group of the Sentencing
Commission**

Good morning Senator Coleman, Representative Fox, Senator Kissel,
Representative Rebimbas and members of the Judiciary Committee.

I am Andrew Clark, the Acting Executive Director of the Connecticut Sentencing Commission. I am joined here today by Sarah Russell, Assistant Professor of Law at Quinnipiac University School of Law and a member of the Sentencing Commission's Certificates of Rehabilitation Working Group. **We are here to testify in support of House Bill 6582, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.**

In 2006, the Connecticut General Assembly created the provisional pardon program, which provides a mechanism for removing barriers to employment and licensing that individuals face based on their prior criminal convictions. In 2012, the Connecticut Sentencing Commission, recognizing that the two most significant barriers to successful reentry are employment and housing, recommended legislation to amend the statutes governing provisional pardons. The legislation, "An Act Concerning Certificates of Relief from Barriers Resulting from Conviction of a Crime," received a favorable report from the Judiciary Committee, but was ultimately not enacted.

After consideration of the 2012 legislation, the testimony received at the Commission's November 29, 2012 public hearing, and follow-up with those who would be affected by the proposed changes, the full Commission recommends that the General Assembly consider the proposal reflected in House Bill 6582. The proposed legislation would create a "certificate of rehabilitation," which could be granted by both the Court Support Services Division and the Board of Pardons and Paroles and would have the same purpose and legal effect as a provisional pardon. The legislation would expedite the process for obtaining relief, provide greater guidance to licensing agencies and state employers, and give employers who hire rehabilitated individuals some protection against lawsuits. More specifically, the legislation would:

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- Revise current law to allow the Court Support Services Division of the Judicial Branch to issue "certificates of rehabilitation" during an offender's probation period. Certificates of rehabilitation would be issued pursuant to the same standards used for granting provisional pardons and they would have the same legal effect as provisional pardons.
- Retain the authority of the Board of Pardons and Paroles to issue provisional pardons, and revise current law so that both parole release panels and pardons panels of the Board may issue certificates of rehabilitation.
- Ensure the safety of victims by providing that both provisional pardons and certificates of rehabilitation shall be granted only if consistent with the safety of any victim of the offense.
- Provide that a provisional pardon/certificate of rehabilitation establishes a rebuttable "presumption of rehabilitation" in the state employment and licensing context. Under current law, in most instances, state employers and licensing agencies in assessing the suitability of an applicant with a prior conviction must consider the age of the conviction, its relationship to the employment or license sought, and evidence of the applicant's rehabilitation. The provisional pardon/certificate would establish a presumption that the applicant is rehabilitated per the assessment criteria in such applications and/or processes. The state employer or licensing agency would retain discretion to deny the employment or license based on the conviction and would be required to provide a written statement of reasons for the denial decision.
- Afford employers limited protection in negligent hiring suits. In an effort to provide an incentive for employers to hire individuals who have obtained certificates comparable to provisional pardons, at least three states—New York, Illinois, and Ohio—have enacted legislation that offers employers some form of legal protection in relation to the hiring of these employees. Following New York's approach, the proposed legislation would create, in cases alleging that the employer has been negligent in hiring or retaining an employee with a prior conviction, a "rebuttable presumption" in favor of excluding from evidence the prior conviction if a provisional pardon/certificate of rehabilitation was issued to the employee and the employer knew about the provisional pardon/certificate at the time of the alleged negligence or other fault.
- Require the Sentencing Commission to evaluate the effectiveness of provisional pardons and certificates of rehabilitation at promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of victims and the protection of property for a period of three years and report to the Judiciary Committee concerning amendments to the general statutes in order to promote such public policy.