

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-27—sSB 153
Judiciary Committee
General Law Committee

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

SUMMARY: This act creates a new document called a certificate of rehabilitation and allows the (1) Board of Pardons and Paroles to issue it to eligible offenders and (2) Judicial Branch’s Court Support Services Division (CSSD) to issue it to eligible offenders under its supervision. As is the case with the provisional pardon that the board issues under existing law, the certificate relieves an eligible offender of certain barriers to gaining employment or obtaining a credential, such as an occupational license, resulting from a criminal conviction. It must be labeled “certificate of employability,” “certificate of suitability for licensure,” or, if appropriate, both. The board and CSSD must generally follow the same procedures and use the same criteria to issue a certificate as the board does for a provisional pardon.

The act also:

1. provides that a provisional pardon or certificate shows presumed rehabilitation when the state or a state agency is considering a prior conviction to determine eligibility for employment or a credential;
2. as with people who hold provisional pardons, prohibits public and private employers from denying employment to a prospective employee or discharging or discriminating against an employee based solely on a conviction for which the person received a certificate;
3. limits the admissibility of an applicant’s or employee’s prior conviction in negligence actions against an employer under certain circumstances when the person has a provisional pardon or certificate;
4. allows (a) a provisional pardon or certificate applicant to obtain an investigative report prepared for the board about the applicant and (b) investigative reports related to certificates to be disclosed if required or permitted by statute or specifically authorized by the board, as is the case for provisional pardons under the law;
5. requires the (a) board and CSSD to report to the Office of Policy and Management (OPM) and the Sentencing Commission on certificate applications and petitions and (b) Sentencing Commission to post the data and evaluate the effectiveness of provisional pardons and certificates in promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, crime victim safety, and property protection; and

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6. makes technical and conforming changes.
EFFECTIVE DATE: October 1, 2014

BARRIERS AND FORFEITURES DUE TO CRIMINAL CONVICTIONS

A provisional pardon under the law, or a certificate of rehabilitation under the act, can relieve an eligible offender of barriers or forfeitures when applying for employment or a license. The documents can specify whether they apply to certain barriers or forfeitures or all of them.

By law, a “barrier” is a denial of employment or a license based on a criminal conviction without considering whether the nature of the offense bears a direct relationship to the employment or license. The act defines a “direct relationship” as one in which the criminal conduct has a direct bearing on the person’s fitness or ability to perform a duty or responsibility necessarily related to the employment or license.

By law, a “forfeiture” is disqualification or ineligibility for employment or a license that is based on a conviction.

PROVISIONAL PARDONS OR CERTIFICATES ISSUED BY THE BOARD

The law allows the board to issue a provisional pardon, and the act allows it to issue a certificate, any time after sentencing. The act (1) specifies that this includes issuing one before the offender’s release from Department of Correction custody, probation, or parole and (2) allows issuance of a certificate under the same circumstances.

The act allows the board’s pardons panels or parole release panels to issue provisional pardons and certificates. Previously, only pardons panels could issue provisional pardons.

The law requires the board to make certain findings before issuing a provisional pardon. As under prior law, the board must find that the (1) offender was convicted of a crime in this state or another jurisdiction and is a Connecticut resident, (2) relief may promote the public policy of rehabilitating offenders through employment, and (3) relief is consistent with public safety and protection of property. The act applies these same criteria to issuance of certificates. The act additionally requires the board to find that the relief granted by a provisional pardon or certificate is consistent with victim safety.

The act applies a number of other provisions governing provisional pardons to certificates. Under these provisions:

1. the board must notify, in writing, the clerk of the court where a person was convicted when a certificate is issued;
2. the board may limit the certificate’s applicability to specific types of employment or licensure;
3. the certificate does not entitle a person to erasure of his or her record or relieve him or her of the obligation to disclose the conviction;
4. a certificate cannot apply to eligibility for public office;
5. the board can request its staff to investigate and report on an applicant;
6. the board must follow the same procedures when issuing a new certificate

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- to enlarge relief granted as when issuing an initial certificate; and
7. the board must prescribe the forms for certificate applications, revocations, and investigative reports.

The act requires the board to revoke a provisional pardon or certificate of rehabilitation from anyone later convicted of a crime.

CSSD CERTIFICATES

The act allows CSSD to issue a certificate of rehabilitation to a state resident convicted of a crime in Connecticut or another jurisdiction who is under CSSD's supervision while on probation or other supervised release. It also allows CSSD to revoke or enlarge the relief granted by such a certificate.

The act requires CSSD to follow the rules that apply to certificates from the board, including requirements for issuing, modifying, and revoking them. CSSD must immediately notify the board in writing if it issues, or revokes a certificate or enlarges the relief granted by one.

TEMPORARY PROVISIONAL PARDONS AND CERTIFICATES

The law allows the board to issue to a probationer or parolee a provisional pardon that is deemed temporary until the probation or parole period ends. The act makes (1) certificates temporary under the same conditions and (2) provisional pardons or certificates issued while an offender is incarcerated temporary. It also specifies that temporary provisional pardons or certificates become permanent when the offender completes his or her incarceration, probation, or parole.

The act allows CSSD to issue temporary certificates and, as with the board under existing law, allows revocation for probation or parole violations. The act specifies that revocation of a temporary certificate by either CSSD or the board reinstates the barriers or forfeitures listed in the certificate as of the date the certificate holder receives written notice of revocation. The person must surrender the certificate to the issuing authority upon receipt of written notice of revocation.

REPORTS AND EVALUATIONS

By October 1, 2015, the act requires the board and CSSD to begin submitting annual reports to OPM and the Sentencing Commission, in a form prescribed by OPM. The (1) board must submit data on the number of provisional pardon or certificate applications received, denied, and granted, as well as the number revoked and (2) CSSD must submit data on the administration of certificates, including the number issued or revoked. By January 1, 2016, the commission must post the data on its website and update it every year.

The act requires the Sentencing Commission, or its designee, to evaluate the effectiveness of provisional pardons and certificates in promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, crime victim safety, and protecting property. The evaluations must cover the three years beginning October 1, 2015. The commission must report to the Judiciary Committee by January 15 of 2016, 2017, and 2018 on (1) the

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provisional pardons' and certificates' effectiveness and (2) recommendations for statutory changes.

EMPLOYMENT

The law allows the state or a state agency to deny employment or a credential (such as a professional license or permit) to someone because of a prior criminal conviction if the state or a state agency finds the person unsuitable after considering (1) the nature of the crime and its relationship to the job, (2) information pertaining to the person's rehabilitation, and (3) the time elapsed since the conviction or release.

The act requires the state or agency to consider any provisional pardon or certificate issued to the applicant when making this determination. Under the act, a provisional pardon or certificate creates a presumption of rehabilitation. The act requires the state or an agency that denies employment or a credential based on a conviction for which the person received a provisional pardon or certificate to give the applicant, in writing, the reasons for the denial.

The act extends to people with certificates certain protections the law already grants to people with provisional pardons. It bars public and private employers from (1) denying employment based solely on a conviction for which the prospective employee received a certificate or (2) discharging or discriminating against someone based solely on a conviction prior to being employed for which the employee received a certificate.

LIMITS ON USING EVIDENCE OF PRIOR CONVICTIONS IN NEGLIGENCE CLAIMS

The act creates a rebuttable presumption against admitting evidence of an applicant's or employee's prior conviction in certain lawsuits if (1) the person had a valid provisional pardon or certificate when the alleged negligence occurred and (2) a party establishes by a preponderance of the evidence that the employer knew of the provisional pardon or certificate at the time of the alleged conduct. This applies to any action alleging an employer's negligence in (1) hiring or retaining an applicant or employee or (2) supervising an agent, representative, or designee related to the hiring or retention of the applicant or employee.

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