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09500HB5516ham001

LRB095 17071 RLC 48341 a

1 AMENDMENT TO HOUSE BILL 5516

2 AMENDMENT NO. _____. Amend House Bill 5516 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-5.5-5, 5-5.5-15, 5-5.5-25, and 5-5.5-30
6 and by adding Section 5-5.5-55 as follows:

7 (730 ILCS 5/5-5.5-5)

8 Sec. 5-5.5-5. Definitions and rules of construction. In
9 this Article:

10 "Eligible offender" means a person who has been convicted
11 of a crime that does not include any offense or attempted
12 offense that would subject a person to registration under the
13 Sex Offender Registration Act, the Arsonist Registration Act,
14 or the Child Murderer and Violent Offender Against Youth
15 Registration Act. "Eligible offender" does not include a person
16 who has been convicted of committing or attempting to commit

1 ~~first degree murder or of an offense that is not a crime of~~
2 ~~violence as defined in Section 2 of the Crime Victims~~
3 ~~Compensation Act, a Class X or a nonprobationable offense, or a~~
4 ~~violation of Article 11 or Article 12 of the Criminal Code of~~
5 ~~1961, but who has not been convicted more than twice of a~~
6 ~~felony.~~

7 "Felony" means a conviction of a felony in this State, or
8 of an offense in any other jurisdiction for which a sentence to
9 a term of imprisonment in excess of one year, was authorized.

10 ~~For the purposes of this Article the following rules of~~
11 ~~construction apply:~~

12 ~~(i) two or more convictions of felonies charged in~~
13 ~~separate counts of one indictment or information shall be~~
14 ~~deemed to be one conviction;~~

15 ~~(ii) two or more convictions of felonies charged in 2~~
16 ~~or more indictments or informations, filed in the same~~
17 ~~court prior to entry of judgment under any of them, shall~~
18 ~~be deemed to be one conviction; and~~

19 ~~(iii) a plea or a verdict of guilty upon which a~~
20 ~~sentence of probation, conditional discharge, or~~
21 ~~supervision has been imposed shall be deemed to be a~~
22 ~~conviction.~~

23 (Source: P.A. 93-207, eff. 1-1-04; 94-1067, eff. 8-1-06.)

24 (730 ILCS 5/5-5.5-15)

25 Sec. 5-5.5-15. Certificates of relief from disabilities

1 issued by courts.

2 (a) Any circuit court of this State may, in its discretion,
3 issue a certificate of relief from disabilities to an eligible
4 offender for a conviction that occurred in that court if the
5 court imposed a sentence other than one executed by commitment
6 to an institution under the Department of Corrections. The
7 certificate may be issued (i) at the time sentence is
8 pronounced, in which case it may grant relief from forfeiture
9 as well as from disabilities, or (ii) at any time thereafter,
10 in which case it shall apply only to disabilities.

11 (b) The certificate may not be issued by the court unless
12 the court is satisfied that:

13 (1) the person to whom it is to be granted is an
14 eligible offender, as defined in Section 5-5.5-5;

15 (2) the relief to be granted by the certificate is
16 consistent with the rehabilitation of the eligible
17 offender; and

18 (3) the relief to be granted by the certificate is
19 consistent with the public interest.

20 (c) If a certificate of relief from disabilities is not
21 issued at the time sentence is pronounced it shall only be
22 issued thereafter upon verified application to the court. The
23 court may, for the purpose of determining whether the
24 certificate shall be issued, request the probation or court
25 services department to conduct an investigation of the
26 applicant. Any probation officer requested to make an

1 investigation under this Section shall prepare and submit to
2 the court a written report in accordance with the request.

3 (d) Any court that has issued a certificate of relief from
4 disabilities may at any time issue a new certificate to enlarge
5 the relief previously granted provided that the provisions of
6 clauses (1) through (3) of subsection (b) of this Section apply
7 to the issuance of any such new certificate.

8 (e) Any written report submitted to the court under this
9 Section is confidential and may not be made available to any
10 person or public or private agency except if specifically
11 required or permitted by statute or upon specific authorization
12 of the court. However, it shall be made available by the court
13 for examination by the applicant's attorney, or the applicant
14 himself or herself, if he or she has no attorney. In its
15 discretion, the court may except from disclosure a part or
16 parts of the report that are not relevant to the granting of a
17 certificate, or sources of information which have been obtained
18 on a promise of confidentiality, or any other portion of the
19 report, disclosure of which would not be in the interest of
20 justice. The action of the court excepting information from
21 disclosure shall be subject to appellate review. The court, in
22 its discretion, may hold a conference in open court or in
23 chambers to afford an applicant an opportunity to controvert or
24 to comment upon any portions of the report. The court may also
25 conduct a summary hearing at the conference on any matter
26 relevant to the granting of the application and may take

1 testimony under oath.

2 (Source: P.A. 93-207, eff. 1-1-04.)

3 (730 ILCS 5/5-5.5-25)

4 Sec. 5-5.5-25. Certificate of good conduct.

5 (a) A certificate of good conduct may be granted as
6 provided in this Section to relieve an eligible offender of any
7 employment bar as defined in Section 5-5.5-5 of this Code. The
8 certificate may be limited to one or more enumerated
9 disabilities or bars or may relieve the individual of all
10 disabilities and bars.

11 Notwithstanding any other provision of law, a certificate
12 of good conduct does not relieve an offender of any
13 employment-related disability imposed by law by reason of his
14 or her conviction of a crime that would prevent his or her
15 employment by the Department of Corrections.

16 (a-6) ~~(a)~~ A certificate of good conduct may be granted as
17 provided in this Section to an eligible offender as defined in
18 Section 5-5.5-5 of this Code who has demonstrated that he or
19 she has been a law-abiding citizen and is fully rehabilitated.

20 (b) (i) A certificate of good conduct may not, however, in
21 any way prevent any judicial proceeding, administrative,
22 licensing, or other body, board, or authority from
23 considering the conviction specified in the certificate.

24 (ii) A certificate of good conduct shall not limit or
25 prevent the introduction of evidence of a prior conviction

1 for purposes of impeachment of a witness in a judicial or
2 other proceeding where otherwise authorized by the
3 applicable rules of evidence.

4 (iii) A certificate of good conduct does not limit the
5 employer from accessing criminal background information;
6 nor does it hide, alter, or expunge the record.

7 (Source: P.A. 93-207, eff. 1-1-04.)

8 (730 ILCS 5/5-5.5-30)

9 Sec. 5-5.5-30. Issuance of certificate of good conduct.

10 (a) After clemency-like review has been held, the ~~The~~
11 Prisoner Review Board, or any 3 members of the Board by
12 unanimous vote, shall have the power to issue a certificate of
13 good conduct to any eligible offender previously convicted of a
14 crime in this State, when the Board is satisfied that:

15 (1) the applicant has conducted himself or herself in a
16 manner warranting the issuance for a minimum period in
17 accordance with the provisions of subsection (c) of this
18 Section;

19 (2) the relief to be granted by the certificate is
20 consistent with the rehabilitation of the applicant; and

21 (3) the relief to be granted is consistent with the
22 public interest.

23 (b) The Prisoner Review Board, or any 3 members of the
24 Board by unanimous vote, shall have the power to issue a
25 certificate of good conduct to any person previously convicted

1 of a crime in any other jurisdiction, when the Board is
2 satisfied that:

3 (1) the applicant has demonstrated that there exist
4 specific facts and circumstances and specific sections of
5 Illinois State law that have an adverse impact on the
6 applicant and warrant the application for relief to be made
7 in Illinois; and

8 (2) the provisions of paragraphs (1), (2), and (3) of
9 subsection (a) of this Section have been met.

10 (c) The minimum period of good conduct by the individual
11 referred to in paragraph (1) of subsection (a) of this Section,
12 shall be as follows: if the most serious crime of which the
13 individual was convicted is a misdemeanor, the minimum period
14 of good conduct shall be one year; if the most serious crime of
15 which the individual was convicted is a Class 1, 2, 3, or 4
16 felony, the minimum period of good conduct shall be 3 years.
17 Criminal acts committed outside the State shall be classified
18 as acts committed within the State based on the maximum
19 sentence that could have been imposed based upon the conviction
20 under the laws of the foreign jurisdiction. The minimum period
21 of good conduct by the individual shall be measured either from
22 the date of the payment of any fine imposed upon him or her, or
23 from the date of his or her release from custody by parole,
24 mandatory supervised release or commutation or termination of
25 his or her sentence. The Board shall have power and it shall be
26 its duty to investigate all persons when the application is

1 made and to grant or deny the same within a reasonable time
2 after the making of the application.

3 (d) If the Prisoner Review Board has issued a certificate
4 of good conduct, the Board may at any time issue a new
5 certificate enlarging the relief previously granted.

6 (e) Any certificate of good conduct by the Prisoner Review
7 Board to an individual who at the time of the issuance of the
8 certificate is under the conditions of parole or mandatory
9 supervised release imposed by the Board shall be deemed to be a
10 temporary certificate until the time as the individual is
11 discharged from the terms of parole or mandatory supervised
12 release, and, while temporary, the certificate may be revoked
13 by the Board for violation of the conditions of parole or
14 mandatory supervised release. Revocation shall be upon notice
15 to the parolee or releasee, who shall be accorded an
16 opportunity to explain the violation prior to a decision on the
17 revocation. If the certificate is not so revoked, it shall
18 become a permanent certificate upon expiration or termination
19 of the offender's parole or mandatory supervised release term.
20 (Source: P.A. 93-207, eff. 1-1-04.)

21 (730 ILCS 5/5-5.5-55 new)

22 Sec. 5-5.5-55. Immunity from liability. An employer shall
23 be immune from civil liability for any act or omission
24 committed by a person hired by the employer who has been issued
25 a certificate of good conduct under this Article, except for

1 willful or wanton misconduct.

2 Section 99. Effective date. This Act takes effect June 1,
3 2008.".