



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

#### HB1074

Introduced 2/11/2009, by Rep. Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5.5-5  
730 ILCS 5/5-5.5-15  
730 ILCS 5/5-5.5-25  
730 ILCS 5/5-5.5-30

Amends the Unified Code of Corrections relating to relief from disabilities automatically imposed by law. Provides that the court may grant relief from forfeitures. Defines "eligible offender" for the purposes of relief from disabilities and forfeitures as a person who has been convicted of a crime that does not include an offense or attempted offense that would subject the person to registration under the Sex Offender Registration Act, the Arsonist Registration Act, or the Child Murderer and Violent Offender Against Youth Registration Act (rather than an offense that is not a crime of violence, a Class X or a nonprobationable offense, or a violation of the Sex Offenses or Bodily Harm Articles of the Criminal Code of 1961, but who has not been convicted more than twice of a felony). Provides that "eligible offender" does not include a person who has been convicted of committing or attempting to commit first degree murder. Provides that a certificate of good conduct may be granted to relieve an eligible offender of any employment bar. Provides that the certificate may be limited to one or more enumerated disabilities or bars or may relieve the individual of all disabilities and bars. Provides that a certificate of good conduct does not limit the employer from accessing criminal background information; nor does it hide, alter, or expunge the record. Provides that a certificate of good conduct does not relieve an offender of any employment-related disability imposed by law by reason of his or her conviction of a crime that would prevent his or her employment by the Department of Corrections.

LRB096 08257 RLC 18364 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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 as  
6 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  
17 first degree murder or of an offense that is not a crime of  
18 violence as defined in Section 2 of the Crime Victims  
19 Compensation Act, a Class X or a nonprobationable offense, or a  
20 violation of Article 11 or Article 12 of the Criminal Code of  
21 1961, but who has not been convicted more than twice of a  
22 felony.

23 "Felony" means a conviction of a felony in this State, or

1 of an offense in any other jurisdiction for which a sentence to  
2 a term of imprisonment in excess of one year, was authorized.

3 ~~For the purposes of this Article the following rules of~~  
4 ~~construction apply:~~

5 ~~(i) two or more convictions of felonies charged in~~  
6 ~~separate counts of one indictment or information shall be~~  
7 ~~deemed to be one conviction;~~

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

12 ~~(iii) a plea or a verdict of guilty upon which a~~  
13 ~~sentence of probation, conditional discharge, or~~  
14 ~~supervision has been imposed shall be deemed to be a~~  
15 ~~conviction.~~

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

17 (730 ILCS 5/5-5.5-15)

18 Sec. 5-5.5-15. Certificates of relief from disabilities  
19 issued by courts.

20 (a) Any circuit court of this State may, in its discretion,  
21 issue a certificate of relief from disabilities to an eligible  
22 offender for a conviction that occurred in that court if the  
23 court imposed a sentence other than one executed by commitment  
24 to an institution under the Department of Corrections. The  
25 certificate may be issued (i) at the time sentence is

1 pronounced, in which case it may grant relief from forfeiture  
2 of licenses as well as from disabilities, or (ii) at any time  
3 thereafter, in which case it shall apply only to disabilities.

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

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

8 (2) the relief to be granted by the certificate is  
9 consistent with the rehabilitation of the eligible  
10 offender; and

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

13 (c) If a certificate of relief from disabilities is not  
14 issued at the time sentence is pronounced it shall only be  
15 issued thereafter upon verified application to the court. The  
16 court may, for the purpose of determining whether the  
17 certificate shall be issued, request the probation or court  
18 services department to conduct an investigation of the  
19 applicant. Any probation officer requested to make an  
20 investigation under this Section shall prepare and submit to  
21 the court a written report in accordance with the request.

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

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

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

22 (730 ILCS 5/5-5.5-25)

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

24 (a) A certificate of good conduct may be granted as  
25 provided in this Section to relieve an eligible offender of any

1 employment bar as defined in Section 5-5.5-5 of this Code. The  
2 certificate may be limited to one or more enumerated  
3 disabilities or bars or may relieve the individual of all  
4 disabilities and bars.

5 Notwithstanding any other provision of law, a certificate  
6 of good conduct does not relieve an offender of any  
7 employment-related disability imposed by law by reason of his  
8 or her conviction of a crime that would prevent his or her  
9 employment by the Department of Corrections.

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

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

18 (ii) A certificate of good conduct shall not limit or  
19 prevent the introduction of evidence of a prior conviction  
20 for purposes of impeachment of a witness in a judicial or  
21 other proceeding where otherwise authorized by the  
22 applicable rules of evidence.

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

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

1 (730 ILCS 5/5-5.5-30)

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

3 (a) After a rehabilitation review has been held, ~~The~~  
4 ~~Prisoner Review Board,~~ or any 3 members of the Prisoner Review  
5 Board by unanimous vote, shall have the power to issue a  
6 certificate of good conduct to any eligible offender previously  
7 convicted of a crime in this State, when the Board is satisfied  
8 that:

9 (1) the applicant has conducted himself or herself in a  
10 manner warranting the issuance for a minimum period in  
11 accordance with the provisions of subsection (c) of this  
12 Section;

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

15 (3) the relief to be granted is consistent with the  
16 public interest.

17 (b) The Prisoner Review Board, or any 3 members of the  
18 Board by unanimous vote, shall have the power to issue a  
19 certificate of good conduct to any person previously convicted  
20 of a crime in any other jurisdiction, when the Board is  
21 satisfied that:

22 (1) the applicant has demonstrated that there exist  
23 specific facts and circumstances and specific sections of  
24 Illinois State law that have an adverse impact on the  
25 applicant and warrant the application for relief to be made

1           in Illinois; and

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

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

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

26          (e) (Blank) ~~Any certificate of good conduct by the Prisoner~~



1 ~~Review Board to an individual who at the time of the issuance~~  
2 ~~of the certificate is under the conditions of parole or~~  
3 ~~mandatory supervised release imposed by the Board shall be~~  
4 ~~deemed to be a temporary certificate until the time as the~~  
5 ~~individual is discharged from the terms of parole or mandatory~~  
6 ~~supervised release, and, while temporary, the certificate may~~  
7 ~~be revoked by the Board for violation of the conditions of~~  
8 ~~parole or mandatory supervised release. Revocation shall be~~  
9 ~~upon notice to the parolee or releasee, who shall be accorded~~  
10 ~~an opportunity to explain the violation prior to a decision on~~  
11 ~~the revocation. If the certificate is not so revoked, it shall~~  
12 ~~become a permanent certificate upon expiration or termination~~  
13 ~~of the offender's parole or mandatory supervised release term.~~

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