



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5771

Introduced 2/16/2012, by Rep. Esther Golar

SYNOPSIS AS INTRODUCED:

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 concerning certificates of good conduct and certificates of relief from disabilities. Provides that the certificate may be granted to an eligible offender who has demonstrated by a preponderance of the evidence (rather than by clear and convincing evidence) that he or she has been a law-abiding citizen and is fully rehabilitated. Provides that the applicant has conducted himself or herself in a manner warranting the issuance of the certificate of good conduct for a minimum period of one year (rather than 3 years if the person was convicted of a felony and one year if the person was convicted of a misdemeanor).

LRB097 19180 RLC 64422 b

1 AN ACT concerning certificates of good conduct and relief
2 from disabilities.

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

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

7 (730 ILCS 5/5-5.5-15)

8 Sec. 5-5.5-15. Certificates of relief from disabilities
9 issued by courts.

10 (a) Any circuit court of this State may issue a certificate
11 of relief from disabilities to an eligible offender for a
12 conviction that occurred in that court if the court imposed the
13 sentence. The certificate may be issued (i) at the time
14 sentence is pronounced, in which case it may grant relief from
15 disabilities, or (ii) at any time thereafter, in which case it
16 shall apply only to disabilities.

17 (b) The certificate may not be issued by the court unless
18 the court is satisfied, based on a preponderance of the ~~clear~~
19 ~~and convincing~~ evidence, that:

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

22 (2) the relief to be granted by the certificate is
23 consistent with the rehabilitation of the eligible

1 offender; and

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

4 (c) If a certificate of relief from disabilities is not
5 issued at the time sentence is pronounced it shall only be
6 issued thereafter upon verified application to the court. The
7 court may, for the purpose of determining whether the
8 certificate shall be issued, request the probation or court
9 services department to conduct an investigation of the
10 applicant. Any probation officer requested to make an
11 investigation under this Section shall prepare and submit to
12 the court a written report in accordance with the request.

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

18 (e) Any written report submitted to the court under this
19 Section is confidential and may not be made available to any
20 person or public or private agency except if specifically
21 required or permitted by statute or upon specific authorization
22 of the court. However, it shall be made available by the court
23 for examination by the applicant's attorney, or the applicant
24 himself or herself, if he or she has no attorney. In its
25 discretion, the court may except from disclosure a part or
26 parts of the report that are not relevant to the granting of a

1 certificate, or sources of information which have been obtained
2 on a promise of confidentiality, or any other portion of the
3 report, disclosure of which would not be in the interest of
4 justice. The action of the court excepting information from
5 disclosure shall be subject to appellate review. The court, in
6 its discretion, may hold a conference in open court or in
7 chambers to afford an applicant an opportunity to controvert or
8 to comment upon any portions of the report. The court may also
9 conduct a summary hearing at the conference on any matter
10 relevant to the granting of the application and may take
11 testimony under oath.

12 (f) An employer is not civilly or criminally liable for an
13 act or omission by an employee who has been issued a
14 certificate of relief from disabilities, except for a willful
15 or wanton act by the employer in hiring the employee who has
16 been issued a certificate of relief from disabilities.

17 (Source: P.A. 96-852, eff. 1-1-10.)

18 (730 ILCS 5/5-5.5-25)

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

20 (a) A certificate of good conduct may be granted as
21 provided in this Section to relieve an eligible offender of any
22 employment bar. The certificate may be limited to one or more
23 disabilities or bars or may relieve the individual of all
24 disabilities and bars.

25 Notwithstanding any other provision of law, a certificate

1 of good conduct does not relieve an offender of any
2 employment-related disability imposed by law by reason of his
3 or her conviction of a crime that would prevent his or her
4 employment by the Department of Corrections, Department of
5 Juvenile Justice, or any other law enforcement agency in the
6 State.

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

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

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

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

24 (c) An employer is not civilly or criminally liable for an
25 act or omission by an employee who has been issued a
26 certificate of good conduct, except for a willful or wanton act

1 by the employer in hiring the employee who has been issued a
2 certificate of good conduct.

3 (Source: P.A. 96-852, eff. 1-1-10.)

4 (730 ILCS 5/5-5.5-30)

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

6 (a) After a rehabilitation review has been held, in a
7 manner designated by the chief judge of the judicial circuit in
8 which the conviction was entered, the Circuit Court of that
9 judicial circuit shall have the power to issue a certificate of
10 good conduct to any eligible offender previously convicted of a
11 crime in this State, and shall make a specific finding of
12 rehabilitation with the force and effect of a final judgment on
13 the merits, when the Court is satisfied that:

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

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

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

22 (b) The Circuit Court shall have the power to issue a
23 certificate of good conduct to any person previously convicted
24 of a crime in any other jurisdiction, when the Court is
25 satisfied that:

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

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

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

1 (d) If the Circuit Court has issued a certificate of good
2 conduct, the Court may at any time issue a new certificate
3 enlarging the relief previously granted.

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

18 (f) The Court shall, upon notice to a certificate holder,
19 have the power to revoke a certificate of good conduct upon a
20 subsequent conviction.

21 (Source: P.A. 96-852, eff. 1-1-10.)