



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1294

Introduced 2/20/2007, 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 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 (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 a certificate of good conduct may be granted to relieve an eligible offender of any employment-related disability, or to remove any bar to his or her employment, automatically imposed by law by reason of his or her conviction of the crime or of the offense specified in the certificate. 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 notwithstanding any other provision of law, a conviction of a crime or of an offense specified in a certificate of good conduct may not be deemed to be a conviction within the meaning of any provision of law that imposes, by reason of a conviction, a bar to any employment, a disability to exercise any right or a disability to apply for or to receive any license, permit, or other authority or privilege covered by the certificate. Effective June 1, 2007.

LRB095 10060 RLC 30274 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 ~~or of an offense that is not a~~
14 ~~crime of violence as defined in Section 2 of the Crime Victims~~
15 ~~Compensation Act, a Class X or a nonprobationable offense, or a~~
16 ~~violation of Article 11 or Article 12 of the Criminal Code of~~
17 ~~1961, but who has not been convicted more than twice of a~~
18 ~~felony.~~

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

22 ~~For the purposes of this Article the following rules of~~
23 ~~construction apply:~~

1 ~~(i) two or more convictions of felonies charged in~~
2 ~~separate counts of one indictment or information shall be~~
3 ~~deemed to be one conviction;~~

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

8 ~~(iii) a plea or a verdict of guilty upon which a~~
9 ~~sentence of probation, conditional discharge, or~~
10 ~~supervision has been imposed shall be deemed to be a~~
11 ~~conviction.~~

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

13 (730 ILCS 5/5-5.5-15)

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

16 (a) Any circuit court of this State may, in its discretion,
17 issue a certificate of relief from disabilities to an eligible
18 offender for a conviction that occurred in that court if the
19 court imposed a sentence other than one executed by commitment
20 to an institution under the Department of Corrections. The
21 certificate may be issued (i) at the time sentence is
22 pronounced, in which case it may grant relief from forfeiture
23 as well as from disabilities, or (ii) at any time thereafter,
24 in which case it shall apply only to disabilities.

25 (b) The certificate may not be issued by the court unless

1 the court is satisfied that:

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

4 (2) the relief to be granted by the certificate is
5 consistent with the rehabilitation of the eligible
6 offender; and

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

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

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

23 (e) Any written report submitted to the court under this
24 Section is confidential and may not be made available to any
25 person or public or private agency except if specifically
26 required or permitted by statute or upon specific authorization

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

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

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-related disability, or to remove any bar to his or
23 her employment, automatically imposed by law by reason of his
24 or her conviction of the crime or of the offense specified in
25 the certificate. The certificate may be limited to one or more

1 enumerated disabilities or bars or may relieve the individual
2 of all disabilities and bars.

3 (a-5) Notwithstanding any other provision of law, a
4 conviction of a crime or of an offense specified in a
5 certificate of good conduct may not be deemed to be a
6 conviction within the meaning of any provision of law that
7 imposes, by reason of a conviction, a bar to any employment, a
8 disability to exercise any right or a disability to apply for
9 or to receive any license, permit, or other authority or
10 privilege covered by the certificate.

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

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

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

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

25 (730 ILCS 5/5-5.5-30)

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

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

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

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

13 (3) the relief to be granted is consistent with the
14 public interest.

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

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

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

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

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

23 (e) Any certificate of good conduct by the Prisoner Review
24 Board to an individual who at the time of the issuance of the
25 certificate is under the conditions of parole or mandatory
26 supervised release imposed by the Board shall be deemed to be a

1 temporary certificate until the time as the individual is
2 discharged from the terms of parole or mandatory supervised
3 release, and, while temporary, the certificate may be revoked
4 by the Board for violation of the conditions of parole or
5 mandatory supervised release. Revocation shall be upon notice
6 to the parolee or releasee, who shall be accorded an
7 opportunity to explain the violation prior to a decision on the
8 revocation. If the certificate is not so revoked, it shall
9 become a permanent certificate upon expiration or termination
10 of the offender's parole or mandatory supervised release term.
11 (Source: P.A. 93-207, eff. 1-1-04.)

12 Section 99. Effective date. This Act takes effect June 1,
13 2007.