

2013 -- S 0358 AS AMENDED

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LC00779
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- ESTABLISHMENT OF
A CERTIFICATE OF GOOD CONDUCT

Introduced By: Senators Metts, Jabour, Pichardo, Crowley, and Goodwin

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 13 of the General Laws entitled "CRIMINALS - CORRECTIONAL
2 INSTITUTIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 8.2

4 CERTIFICATE OF GOOD CONDUCT

5 **13-8.2-1. Certificate of good conduct established -- Findings of the general assembly**
6 **and purposes. --** There is hereby established a certificate of good conduct for individuals that are
7 convicted of a crime in which their legal status and ability to seek and maintain employment
8 changes forever. A criminal record may prohibit individuals from successfully obtaining jobs,
9 occupational licenses, housing and other benefits and opportunities available to all other
10 individuals. These restrictions are often narrowly tailored and serve to protect society against an
11 unidentified public safety risk, but others are arbitrary, unnecessary and without regard to any
12 post-conviction rehabilitation or good conduct. Individuals who have successfully completed
13 their board-imposed sentences need to be able to reestablish themselves as law-abiding members
14 of society. At the same time, employers and other decision-makers need to have some reassurance
15 of a person's reliability. Therefore, the intent and purpose of this chapter is to provide a process
16 that would, in select and appropriate cases, allow the issuance of a certificate of good conduct.
17 Said certificate, if granted by the parole board, would serve to relieve the petitioner, in
18 appropriate cases, of some of the collateral consequences resulting from his or her criminal

1 record. Said certificate shall serve as one determining factor as to whether the petitioner has been
2 successful in his or her rehabilitation.

3 **13-8.2-2. Definitions.** -- As used in this chapter the following words and terms shall have
4 the following meanings:

5 (1) "Board" means the parole board within the Rhode Island department of corrections,
6 established pursuant to the provisions of section 13-8-1.

7 (2) "Department" means the department of corrections.

8 (3) "Director" means the director of the department of corrections.

9 (4) "Eligible Petitioner" means a person who has not been convicted of a crime or of an
10 offense as defined in RIGL subdivision 11-47-2(2) and in RIGL subdivision 12-1.3-1(1) who has
11 not been convicted of more than one felony.

12 (5) "Certificate of good conduct" or "Certificate" shall serve as one determining factor,
13 consistent with concerns of public safety, of the person's ability to obtain employment,
14 professional licenses, housing and other benefits and opportunities. Provided, further, that said
15 instrument shall serve as a determination that the person receiving it has successfully achieved his
16 or her rehabilitation and is therefore deserving of re-entry into society.

17 (6) "Conviction" notwithstanding the provisions of section 12-18-3, means the imposition
18 of a fine, period of incarceration whether or not suspended, probation or deferred sentence
19 imposed after the entry of a plea of nolo contendere.

20 (7) "Petition" means the motion, pleading, or other legal document or form seeking the
21 issuance of a certificate of rehabilitation from the board.

22 (8) "Felony" means a conviction of a felony in this state or of an offense, that is not a
23 crime of violence, in any other jurisdiction for which a sentence to a term of imprisonment in
24 excess of one year, was authorized. Criminal acts committed outside the state shall be classified
25 as acts committed within the state.

26 **13-8.2-3. Rules of construction.** -- For the purposes of this chapter the following rules of
27 construction, facts and circumstances shall apply:

28 (1) Two (2) or more convictions of felonies charged in separate counts of one indictment
29 or information shall be deemed to be one conviction;

30 (2) Two (2) or more convictions of felonies charged in two (2) or more separate
31 indictments or information, where disposition of all indictments or information takes place on the
32 same date, shall be deemed to be one conviction; and

33 (3) A plea or verdict of guilty upon which a sentence of probation, conditional discharge,
34 or supervision has been imposed shall be deemed to be a conviction.

1 **13-8.2-4. Procedure for issuance of certificate.** -- The board shall have the following
2 procedures for certificate of good conduct hearings:

3 (1) To hear petitions from individuals seeking an order granting the issuance of a
4 certificate of good conduct.

5 (2) To establish the minimum period of good conduct for individuals referred to in
6 subdivision (1) of this section, as follows:

7 (i) Where the most serious crime of which the individual was convicted is a
8 misdemeanor, the minimum period of good conduct shall be one year;

9 (ii) Where the most serious crime of which the individual was convicted is a non-violent
10 felony conviction, the minimum period of good conduct shall be three (3) years; and

11 (iii) The minimum period of good conduct by the individual shall be measured either
12 from the date of the payment of any fine imposed upon him or her, or from the date of his or her
13 release from the institutional facility, custody by parole or home confinement, whichever is later.

14 (3) To classify criminal acts committed outside the state as acts committed within the
15 state based on the non violent nature of the criminal acts and the maximum sentence that could
16 have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction.

17 (4) To use its discretion as to the holding of an open hearing or an individual conference
18 on any matter relevant to the granting of the application and the taking of testimony under oath.

19 **13-8.2-5. Powers and duties of the board.** -- (a) The board shall have the power to issue
20 and establish criteria to determine eligibility for issuance of the certificate of good conduct;

21 (b) By an affirmative vote of a majority of the members of the board to issue a certificate
22 of good conduct to any person previously convicted of a crime in any jurisdiction;

23 (c) To create all applications, and certificates necessary for the purposes of this chapter
24 upon forms prescribed by the board. Such forms relating to certificates of good conduct shall be
25 distributed by the chairman of the board;

26 (d) To promulgate all necessary rules and regulations to carry out the intent of this
27 chapter; and

28 (e) Any information contained within a certificate of good conduct as created in
29 subsection (c) of this section shall be limited to:

30 (i) The applicant's name;

31 (ii) Date of birth;

32 (iii) Certificate number;

33 (iv) Issue date;

34 (v) A statement that "The board has determined that up to and including the issue date

1 stated above, this individual has met the necessary standards of good conduct to hold the
2 certificate"; and

3 (vi) Authentication phone number for the department of corrections.

4 **13-8.2-6. Limitations and restrictions of certificate. --** (a) Nothing contained in this
5 chapter shall be deemed:

6 (1) Destruction or sealing of criminal records pursuant to section 12-1-12; or

7 (2) Expungement of criminal records pursuant to sections 12-1.3-1 through 4; or

8 (3) To alter or limit or affect the manner of applying for pardons to the
9 Governor;

10 (b) The certificate shall not to be deemed to prevent:

11 (1) Any judicial proceeding, administrative, licensing or other body, or authority from
12 relying upon the conviction specified in the certificate as the basis for the exercise of its
13 discretionary power to suspend, revoke, or refuse to issue or renew any license, permit, or other
14 authority or privilege.

15 (2) Or limit the introduction of evidence of a prior conviction for purposes of
16 impeachment of a witness in a judicial or other proceeding where otherwise authorized by the
17 applicable rules of evidence.

18 (3) The enhancement from misdemeanor to felony when charging an individual with a
19 criminal offense, subsequent to the conviction on which the certificate was issued, when a prior
20 conviction mandates such enhancement of subsequent charges.

21 **13-8.2-7. Severability. --** If any provision of this chapter or its application to any person
22 or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not
23 affect other provisions or applications of this chapter which can be given effect without the
24 invalid or unconstitutional provision or application, and to this end the provisions of this chapter
25 are declared to be severable.

26 **13-8.2-8. Immunity for third-party individuals -- Civil and criminal. --** An individual
27 or entity that denies employment, professional licensing, housing or other benefits or
28 opportunities to a holder of a certificate of good conduct on the basis of a criminal records check
29 shall not be liable for civil damages or subject to any claim, demand, cause of action, or
30 proceeding of any nature as a result of such denial.

31 SECTION 2. This act shall take effect one year from the date of passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- ESTABLISHMENT OF
A CERTIFICATE OF GOOD CONDUCT

1 This act would authorize the parole board to issue certificates of good conduct to
2 individuals convicted of certain crimes who establish their successful rehabilitation to the
3 satisfaction of the parole board.

4 This act would take effect one year from the date of passage.

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