

2012 -- S 2490 SUBSTITUTE A AS AMENDED

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LC01591/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINALS--CORRECTIONAL INSTITUTIONS -- PAROLE

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

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 13-8 of the General Laws entitled "Parole" is hereby amended by
2 adding thereto the following section:

3 **13-8-35. Certificates of good conduct.** – (a) There is hereby established a certificate of
4 good conduct procedure established for individuals that are convicted of a crime in which their
5 legal status and ability to seek and maintain employment changes forever. A criminal record may
6 prohibit individuals from successfully obtaining jobs, occupational licenses, housing and other
7 benefits and opportunities available to all other individuals. These restrictions are often narrowly
8 tailored and serve to protect society against an unidentified public safety risk, but others are
9 arbitrary, unnecessary and without regard to any post-conviction rehabilitation or good conduct.
10 Individuals who have successfully completed their board-imposed sentences need to be able to
11 reestablish themselves as law-abiding members of society. At the same time, employers and other
12 decision-makers need to have some reassurance of a person's reliability. Therefore, the intent and
13 purpose of this section is to provide a process that would, in select and appropriate cases, allow
14 the issuance of a certificate of good conduct. Said certificate, if granted by the board, would serve
15 to relieve the petitioner of some, and in appropriate cases, the collateral consequences resulting
16 from his or her criminal record. Said certificate shall serve as one determining factor as to
17 whether the petitioner has been successful in his or her rehabilitation.

18 (b) As used in this section the following words and terms shall have the following
19 meanings:

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

3 (2) “Department” means the department of corrections.

4 (3) “Director” means the director of the department of corrections.

5 (4) “Eligible petitioner” means a person who has not been convicted of a crime or of an
6 offense as defined in sections 11-47-2 and in 12-1.3-1 who has not been convicted of more than
7 one felony.

8 (5) “Certificate of good conduct” or “certificate” means a document that shall serve as
9 one determining factor, consistent with concerns of public safety, of the person’s ability to obtain
10 employment, professional licenses, housing and other benefits and opportunities. Provided,
11 further, that said instrument shall serve as a determination that the person receiving it has
12 successfully achieved his or her rehabilitation and is therefore deserving of re-entry into society.

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

16 (7) “Petition” means the motion, pleading, or other legal document or form seeking the
17 issuance of a certificate of rehabilitation from the board.

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

22 (c) For the purposes of this section the following rules of construction, facts and
23 circumstances shall apply:

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

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

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

31 (d) The board shall adopt the following procedures for certificate of good conduct
32 hearings:

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

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

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

5 (ii) Where the most serious crime of which the individual was convicted is a nonviolent
6 felony conviction, the minimum period of good conduct shall be three (3) years; and,

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

10 (3) To classify criminal acts committed outside the state as acts committed within the
11 state based on the nonviolent nature of the criminal acts and the maximum sentence that could
12 have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction.

13 (4) Use its discretion and may hold an open hearing or an individual conference on any
14 matter relevant to the granting of the application and may take testimony under oath.

15 (e) The board shall have the power to issue and establish criteria upon passage of this act
16 to determine eligibility for issuance of the certificate of good conduct:

17 (1) By an affirmative vote of a majority of the members of the board to issue a certificate
18 of good conduct to any person previously convicted of a crime in any jurisdiction.

19 (f) The board shall have the following powers and duties:

20 (1) To create all applications and certificates necessary for the purposes of this section
21 which shall be upon forms prescribed by the board. Such forms relating to certificates of good
22 conduct shall be distributed by the chairperson of the board.

23 (2) To promulgate all necessary rules and regulations to carry out the intent of this
24 section.

25 (3) Any information contained within a certificate of good conduct shall be limited to:

26 (i) The applicant's name;

27 (ii) Date of birth;

28 (iii) Certificate number;

29 (iv) Issue date;

30 (v) A statement that expressly sets forth that "The board has determined that up to and
31 including the issue date stated above, this individual has met the necessary standards of good
32 conduct to hold the certificate"; and

33 (vi) Authentication phone number for department of corrections.

34 (g) Nothing contained in this section shall be deemed:

1 (1) Destruction or sealing of criminal records pursuant to Rhode Island general laws
2 section 12-1-12; or

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

4 (3) To alter or limit or affect the manner of applying for pardons to the governor.

5 (h) The certificate shall not be deemed to prevent:

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

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

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

16 (i) Severability – If any provision of this section or its application to any person or
17 circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not
18 affect other provisions or applications of this section which can be given effect without the
19 invalid or unconstitutional provision or application, and to this end the provisions of this section
20 are declared to be severable.

21 (j) An individual or entity that denies employment, professional licensing, housing or
22 other benefits or opportunities to a holder of a certificate of good conduct on the basis of a
23 criminal records check shall not be liable for civil damages or subject to any claim, demand,
24 cause of action, or proceeding of any nature as a result of such denial.

25 SECTION 2. This act shall take effect one year after the date of enactment.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO CRIMINALS--CORRECTIONAL INSTITUTIONS -- PAROLE

1 This act would create and establish procedures for issuance of certificates of good
2 conduct by the parole board to certain individuals who have demonstrated rehabilitation after
3 conviction of a crime under specific circumstances.

4 This act would take effect one year after the date of enactment.

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