



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB1484**

Introduced 2/21/2007, by Rep. Constance A. Howard - Esther Golar

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5.5-30  
730 ILCS 5/5-5.5-31 new

Amends the Unified Code of Corrections. Provides that in determining whether an applicant for a certificate of good conduct has been rehabilitated, the Prisoner Review Board shall apply the same criteria used to determine whether a recommendation for executive clemency should be issued, and shall grant the certificate only if the applicant meets those standards. Provides that any court of this State may, in its discretion, issue a judicial pardon to an eligible offender for a conviction that occurred in such court. Specifies criteria that the court must evaluate before issuing a judicial pardon. Specifies offenses for which the court may not issue a judicial pardon. Authorizes the sealing of records of persons issued judicial pardons. Provides that upon approval of the county board, the clerk of the court may charge a fee equivalent to the cost associated with a probation officer's investigation and preparation of a report of an offender's eligibility for a judicial pardon. Effective June 1, 2007.

LRB095 10055 RLC 31580 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 Section 5-5.5-30 and by adding Section 5-5.5-31 as  
6 follows:

7 (730 ILCS 5/5-5.5-30)

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

9 (a) The Prisoner Review Board, or any 3 members of the  
10 Board by unanimous vote, shall have the power to issue a  
11 certificate of good conduct to any eligible offender previously  
12 convicted of a crime in this State, when the Board is satisfied  
13 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 Prisoner Review Board, or any 3 members of the  
23 Board by unanimous vote, shall have the power to issue a

1 certificate of good conduct to any person previously convicted  
2 of a crime in any other jurisdiction, when the Board is  
3 satisfied that the provisions of paragraphs (1), (2), and (3)  
4 of subsection (a) of this Section have been met.

5 (b-5) In determining whether the applicant has been  
6 rehabilitated, the Board shall apply the same criteria used to  
7 determine whether a recommendation for executive clemency  
8 should be issued, and shall grant the certificate only if the  
9 applicant meets those standards.

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

1 made and to grant or deny the same within a reasonable time  
2 after the making of the application.

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

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

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

21 (730 ILCS 5/5-5.5-31 new)

22 Sec. 5-5.5-31. Judicial pardon.

23 (a) Any court of this State may, in its discretion, issue a  
24 judicial pardon to an eligible offender for a conviction that  
25 occurred in such court.

1       (b) Such pardon shall not be issued by the court unless the  
2 court is satisfied that:

3           (1) the person to whom it is to be granted is an  
4 eligible offender, as defined in 5-5.5-5 of this Code;

5           (2) the pardon is consistent with the rehabilitation of  
6 the eligible offender;

7           (3) the pardon is consistent with the public interest;

8           (4) the offender has obtained a certificate of good  
9 conduct from the Prisoner Review Board, pursuant to Section  
10 5-5.5-30 of the Unified Code of Corrections;

11           (5) at least 2 years have lapsed since the issuance of  
12 the certificate;

13           (6) since the issuance of the certificate of good  
14 conduct, the applicant has not been convicted of any  
15 offense;

16           (7) there are no criminal charges pending against the  
17 applicant and the applicant is not under parole or  
18 mandatory supervised release; and

19           (8) the applicant's conduct subsequent to the issuance  
20 of the certificate demonstrates rehabilitation.

21       (c) A judicial pardon shall not be issued by the court for  
22 the following offenses:

23           (1) violations of Section 11-501 of the Illinois  
24 Vehicle Code or a similar provision of a local ordinance;

25           (2) violations of Article 11 of the Criminal Code of  
26 1961 or a similar provision of a local ordinance, except

1 Section 11-14 of the Criminal Code of 1961;

2 (3) violations of Section 12-15, 12-30, or 26-5 of the  
3 Criminal Code of 1961 or a similar provision of a local  
4 ordinance;

5 (4) violations that are a crime of violence as defined  
6 in Section 2 of the Crime Victims Compensation Act or a  
7 similar provision of a local ordinance;

8 (5) Class A misdemeanor violations of the Humane Care  
9 for Animals Act; and

10 (6) any offense or attempted offense that would subject  
11 a person to registration under the Sex Offender  
12 Registration Act.

13 (d) A judicial pardon shall only be issued upon verified  
14 application to the court. The court may, for the purpose of  
15 determining whether such pardon shall be issued, request its  
16 probation service to conduct an investigation of the applicant.  
17 Any probation officer requested to make an investigation  
18 pursuant to this Section shall prepare and submit to the court  
19 a written report in accordance with such request.

20 (e) Contents of petition. The petition shall contain the  
21 applicant's name, date of birth, current address, each charge,  
22 each case number, the date of each charge, the identity of the  
23 arresting authority, and such other information as the court  
24 may require. During the pendency of the proceeding, the  
25 applicant shall promptly notify the clerk of the court of any  
26 change of address.

1       (f) Drug test. A person filing a petition to have his or  
2 her records sealed for a felony violation of the Cannabis  
3 Control Act, a felony violation of the Methamphetamine Control  
4 and Community Protection Act, or for a felony violation of the  
5 Illinois Controlled Substances Act must attach to the petition  
6 proof that the applicant has passed a test taken within the  
7 previous 30 days before the filing of the petition showing the  
8 absence within his or her body of all illegal substances in  
9 violation of either the Illinois Controlled Substances Act, the  
10 Methamphetamine Control and Community Protection Act, or the  
11 Cannabis Control Act.

12       (g) Service of petition. The clerk shall promptly serve a  
13 copy of the petition on the State's Attorney or prosecutor  
14 charged with the duty of prosecuting the offense, the  
15 Department of State Police, the arresting agency and the chief  
16 legal officer of the unit of local government effecting the  
17 arrest.

18       (h) Any court that has issued a pardon for conviction of  
19 one or more offenses, but not all, may at any time issue a new  
20 pardon covering additional offenses, provided, that the  
21 provisions of this Section shall apply to the issuance of any  
22 such new pardon.

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

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

19 (j) Entry of order. Unless the State's Attorney or  
20 prosecutor, the Department of State Police, the arresting  
21 agency or such chief legal officer objects to the judicial  
22 pardon within 90 days of notice, the court shall enter an order  
23 sealing the defendant's records.

24 (k) Notwithstanding any other provision of the Criminal  
25 Identification Act to the contrary and cumulative with any  
26 rights to expungement of criminal records, this Section



1 authorizes the sealing of criminal records of adults and of  
2 minors prosecuted as adults. Whenever a person who has been  
3 convicted of an offense is granted a judicial pardon for that  
4 offense, the court shall also enter an order sealing the  
5 applicant's records relating to that offense. Upon entry of the  
6 order of judicial pardon, the clerk of the circuit court shall  
7 promptly mail a copy of the order to the pardoned individual.

8 (1) Notwithstanding any provision of the Clerks of Courts  
9 Act to the contrary, and subject to the approval of the county  
10 board, the clerk may charge a fee equivalent to the cost  
11 associated with the probation officer's investigation and  
12 preparation of the report.

13 Section 99. Effective date. This Act takes effect June 1,  
14 2007.