



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5516

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
730 ILCS 5/5-5.5-55 new

Amends the 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, the Arsonist Registration Act, or the Child Murderer and Violent Offender Against Youth 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 "eligible offender" does not include a person who has been convicted of committing or attempting to commit first degree murder. 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. Provides that a certificate of good conduct does not relieve an offender of any employment-related disability imposed by law by reason of his or her conviction of a crime that would prevent his or her employment by the Department of Corrections. Effective June 1, 2008.

LRB095 17071 RLC 43124 b

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
6 and by adding Section 5-5.5-55 as 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, the Arsonist Registration Act,
14 or the Child Murderer and Violent Offender Against Youth
15 Registration Act. "Eligible offender" does not include a person
16 who has been convicted of committing or attempting to commit
17 first degree murder or of an offense that is not a crime of
18 violence as defined in Section 2 of the Crime Victims
19 Compensation Act, a Class X or a nonprobationable offense, or a
20 violation of Article 11 or Article 12 of the Criminal Code of
21 1961, but who has not been convicted more than twice of a
22 felony.

23 "Felony" means a conviction of a felony in this State, or

1 of an offense in any other jurisdiction for which a sentence to
2 a term of imprisonment in excess of one year, was authorized.

3 "Employment bar" means employment restrictions set out in
4 Section 8-23 of the Park District Code, Section 16a-5 of the
5 Chicago Park District Act, and Sections 10-21.9 and 34-18.5 of
6 the School Code.

7 ~~For the purposes of this Article the following rules of~~
8 ~~construction apply:~~

9 ~~(i) two or more convictions of felonies charged in~~
10 ~~separate counts of one indictment or information shall be~~
11 ~~deemed to be one conviction;~~

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

16 ~~(iii) a plea or a verdict of guilty upon which a~~
17 ~~sentence of probation, conditional discharge, or~~
18 ~~supervision has been imposed shall be deemed to be a~~
19 ~~conviction.~~

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

21 (730 ILCS 5/5-5.5-15)

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

24 (a) Any circuit court of this State may, in its discretion,
25 issue a certificate of relief from disabilities to an eligible

1 offender for a conviction that occurred in that court if the
2 court imposed a sentence other than one executed by commitment
3 to an institution under the Department of Corrections. The
4 certificate may be issued (i) at the time sentence is
5 pronounced, in which case it may grant relief from forfeiture
6 as well as from disabilities, or (ii) at any time thereafter,
7 in which case it shall apply only to disabilities.

8 (b) The certificate may not be issued by the court unless
9 the court is satisfied that:

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

12 (2) the relief to be granted by the certificate is
13 consistent with the rehabilitation of the eligible
14 offender; and

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

17 (c) If a certificate of relief from disabilities is not
18 issued at the time sentence is pronounced it shall only be
19 issued thereafter upon verified application to the court. The
20 court may, for the purpose of determining whether the
21 certificate shall be issued, request the probation or court
22 services department to conduct an investigation of the
23 applicant. Any probation officer requested to make an
24 investigation under this Section shall prepare and submit to
25 the court a written report in accordance with the request.

26 (d) Any court that has issued a certificate of relief from

1 disabilities may at any time issue a new certificate to enlarge
2 the relief previously granted provided that the provisions of
3 clauses (1) through (3) of subsection (b) of this Section apply
4 to the issuance of any such new certificate.

5 (e) Any written report submitted to the court under this
6 Section is confidential and may not be made available to any
7 person or public or private agency except if specifically
8 required or permitted by statute or upon specific authorization
9 of the court. However, it shall be made available by the court
10 for examination by the applicant's attorney, or the applicant
11 himself or herself, if he or she has no attorney. In its
12 discretion, the court may except from disclosure a part or
13 parts of the report that are not relevant to the granting of a
14 certificate, or sources of information which have been obtained
15 on a promise of confidentiality, or any other portion of the
16 report, disclosure of which would not be in the interest of
17 justice. The action of the court excepting information from
18 disclosure shall be subject to appellate review. The court, in
19 its discretion, may hold a conference in open court or in
20 chambers to afford an applicant an opportunity to controvert or
21 to comment upon any portions of the report. The court may also
22 conduct a summary hearing at the conference on any matter
23 relevant to the granting of the application and may take
24 testimony under oath.

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

1 (730 ILCS 5/5-5.5-25)

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

3 (a) A certificate of good conduct may be granted as
4 provided in this Section to relieve an eligible offender of any
5 employment bar as defined in Section 5-5.5-5 of this Code. The
6 certificate may be limited to one or more enumerated
7 disabilities or bars or may relieve the individual of all
8 disabilities and bars.

9 Notwithstanding any other provision of law, a certificate
10 of good conduct does not relieve an offender of any
11 employment-related disability imposed by law by reason of his
12 or her conviction of a crime that would prevent his or her
13 employment by the Department of Corrections.

14 (a-5) Notwithstanding any other provision of law, a
15 conviction of a crime or of an offense specified in a
16 certificate of good conduct may not be deemed to be a
17 conviction within the meaning of any provision in Section 8-23
18 of the Park District Code, Section 16a-5 of the Chicago Park
19 District Act, or Sections 10-21.9 or 34-18.5 of the School
20 Code.

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

25 (b) (i) A certificate of good conduct may not, however, in
26 any way prevent any judicial proceeding, administrative,

1 licensing, or other body, board, or authority from
2 considering the conviction specified in the certificate.

3 (ii) A certificate of good conduct shall not limit or
4 prevent the introduction of evidence of a prior conviction
5 for purposes of impeachment of a witness in a judicial or
6 other proceeding where otherwise authorized by the
7 applicable rules of evidence.

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

9 (730 ILCS 5/5-5.5-30)

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

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

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

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

22 (3) the relief to be granted is consistent with the
23 public interest.

24 (b) The Prisoner Review Board, or any 3 members of the
25 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:

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

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

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

1 its duty to investigate all persons when the application is
2 made and to grant or deny the same within a reasonable time
3 after the making of the application.

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

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

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

22 (730 ILCS 5/5-5.5-55 new)

23 Sec. 5-5.5-55. Immunity from liability. An employer shall
24 be immune from civil liability for any act or omission
25 committed by a person hired by the employer who has been issued

1 a certificate of good conduct under this Article, except for
2 willful or wanton misconduct.

3 Section 99. Effective date. This Act takes effect June 1,
4 2008.