



Substitute Senate Bill No. 153

Public Act No. 14-27

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 54-130a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Jurisdiction over the granting of, and the authority to grant, commutations of punishment or releases, conditioned or absolute, in the case of any person convicted of any offense against the state and commutations from the penalty of death shall be vested in the Board of Pardons and Paroles.

(b) The board shall have authority to grant pardons, conditioned, provisional or absolute, or certificates of rehabilitation for any offense against the state at any time after the imposition and before or after the service of any sentence.

(c) The board may accept an application for a pardon three years after an applicant's conviction of a misdemeanor or violation and five years after an applicant's conviction of a felony, except that the board, upon a finding of extraordinary circumstances, may accept an application for a pardon prior to such dates.

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(d) Whenever the board grants an absolute pardon to any person, the board shall cause notification of such pardon to be made in writing to the clerk of the court in which such person was convicted, or the Office of the Chief Court Administrator if such person was convicted in the Court of Common Pleas, the Circuit Court, a municipal court, or a trial justice court.

(e) Whenever the board grants a provisional pardon or a certificate of rehabilitation to any person, the board shall cause notification of such provisional pardon or certificate of rehabilitation to be made in writing to the clerk of the court in which such person was convicted. The granting of a provisional pardon or a certificate of rehabilitation does not entitle such person to erasure of the record of the conviction of the offense or relieve such person from disclosing the existence of such conviction as may be required.

(f) In the case of any person convicted of a violation for which a sentence to a term of imprisonment may be imposed, the board shall have authority to grant a pardon, conditioned, provisional or absolute, or a certificate of rehabilitation in the same manner as in the case of any person convicted of an offense against the state.

Sec. 2. Section 54-130e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) For the purposes of this section and sections 31-51i, as amended by this act, 46a-80, as amended by this act, [and] 54-130a, as amended by this act, and sections 3 and 4 of this act:

(1) "Barrier" means a denial of employment or a license based on an eligible offender's conviction of a crime without due consideration of whether the nature of the crime bears a direct relationship to such employment or license;

(2) "Direct relationship" means that the nature of criminal conduct

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for which a person was convicted has a direct bearing on the person's fitness or ability to perform one or more of the duties or responsibilities necessarily related to the applicable employment or license;

(3) "Certificate of rehabilitation" means a form of relief from barriers or forfeitures to employment or the issuance of licenses, other than a provisional pardon, that is granted to an eligible offender by (A) the Board of Pardons and Paroles pursuant to this section, or (B) the Court Support Services Division of the Judicial Branch pursuant to section 3 of this act;

[(2)] (4) "Eligible offender" means a person who has been convicted of a crime or crimes in this state or another jurisdiction and who is a resident of this state and (A) is applying for a provisional pardon or is under the jurisdiction of the Board of Pardons and Paroles, or (B) with respect to a certificate of rehabilitation under section 3 of this act, is under the supervision of the Court Support Services Division of the Judicial Branch;

[(3)] (5) "Employment" means any remunerative work, occupation or vocation or any form of vocational training, but does not include employment with a law enforcement agency;

[(4)] (6) "Forfeiture" means a disqualification or ineligibility for employment or a license by reason of law based on an eligible offender's conviction of a crime;

[(5)] (7) "License" means any license, permit, certificate or registration that is required to be issued by the state or any of its agencies to pursue, practice or engage in an occupation, trade, vocation, profession or business; and

[(6)] (8) "Provisional pardon" means a form of relief from barriers or forfeitures to employment or the issuance of licenses granted to an

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eligible offender by the Board of Pardons and Paroles pursuant to subsections (b) to (i), inclusive, of this section.

(b) The Board of Pardons and Paroles may issue a provisional pardon or a certificate of rehabilitation to relieve an eligible offender of barriers or forfeitures by reason of such person's conviction of the crime or crimes specified in such provisional pardon or certificate of rehabilitation. Such provisional pardon or certificate of rehabilitation may be limited to one or more enumerated barriers or forfeitures or may relieve the eligible offender of all barriers and forfeitures. Such certificate of rehabilitation shall be labeled by the board as a "Certificate of Employability" or a "Certificate of Suitability for Licensure", or both, as deemed appropriate by the board. No provisional pardon or certificate of rehabilitation shall apply or be construed to apply to the right of such person to retain or be eligible for public office.

(c) The Board of Pardons and Paroles may, in its discretion, issue a provisional pardon or a certificate of rehabilitation to an eligible offender upon verified application of such [person] eligible offender. The board may issue a provisional pardon or a certificate of rehabilitation at any time after the sentencing of an eligible offender, including, but not limited to, any time prior to the eligible offender's date of release from the custody of the Commissioner of Correction, probation or parole. Such provisional pardon or certificate of rehabilitation may be issued by a pardon panel of the board or a parole release panel of the board.

(d) The board shall not issue a provisional pardon or a certificate of rehabilitation unless the board is satisfied that:

(1) The person to whom the provisional pardon or the certificate of rehabilitation is to be issued is an eligible offender;

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(2) The relief to be granted by the provisional pardon or the certificate of rehabilitation may promote the public policy of rehabilitation of ex-offenders through employment; and

(3) The relief to be granted by the provisional pardon or the certificate of rehabilitation is consistent with the public interest in public safety, the safety of any victim of the offense and the protection of property.

(e) In accordance with the provisions of subsection (d) of this section, the board may limit the applicability of the provisional pardon or the certificate of rehabilitation to specified types of employment or [licenses] licensure for which the eligible offender is otherwise qualified.

(f) The board may, for the purpose of determining whether such provisional pardon or certificate of rehabilitation should be issued, request its staff to conduct an investigation of the applicant and submit to the board a report of the investigation. Any written report submitted to the board pursuant to this subsection shall be confidential and shall not be disclosed except to the applicant and where required or permitted by any provision of the general statutes or upon specific authorization of the board.

(g) If a provisional pardon or a certificate of rehabilitation is issued by the board [while an eligible offender is on probation or parole] pursuant to this section before an eligible offender has completed service of the offender's term of incarceration, probation or parole, or any combination thereof, the provisional pardon or the certificate of rehabilitation shall be deemed to be temporary until the [person] eligible offender completes such [person's period of] eligible offender's term of incarceration, probation or parole. During the period that such provisional pardon or certificate of rehabilitation is temporary, the board may revoke such provisional pardon or certificate of

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rehabilitation for a violation of the conditions of such [person's] eligible offender's probation or parole. After the eligible offender completes such eligible offender's term of incarceration, probation or parole, the temporary provisional pardon or certificate of rehabilitation shall become permanent.

(h) The board may at any time issue a new provisional pardon or certificate of rehabilitation to enlarge the relief previously granted, and the provisions of subsections (b) to (f), inclusive, of this section shall apply to the issuance of any new provisional pardon or certificate of rehabilitation.

(i) The application for a provisional pardon or a certificate of rehabilitation, the report of an investigation conducted pursuant to subsection (f) of this section, the provisional pardon or the certificate of rehabilitation and the revocation of a provisional pardon or a certificate of rehabilitation shall be in such form and contain such information as the Board of Pardons and Paroles shall prescribe.

(j) If a temporary certificate of rehabilitation issued under this section or section 3 of this act is revoked, barriers and forfeitures thereby relieved shall be reinstated as of the date the person to whom the temporary certificate of rehabilitation was issued receives written notice of the revocation. Any such person shall surrender the temporary certificate of rehabilitation to the issuing board or division upon receipt of the notice.

(k) The board shall revoke a provisional pardon or certificate of rehabilitation if the person to whom it was issued is convicted of a crime, as defined in section 53a-24, after the issuance of the provisional pardon or certificate of rehabilitation.

(l) Not later than October 1, 2015, and annually thereafter, the board shall submit to the Office of Policy and Management and the

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Connecticut Sentencing Commission, in such form as the office may prescribe, data on the number of applications received for provisional pardons and certificates of rehabilitation, the number of applications denied, the number of applications granted and the number of provisional pardons and certificates of rehabilitation revoked.

Sec. 3. (NEW) (*Effective October 1, 2014*) (a) The Court Support Services Division of the Judicial Branch may issue a certificate of rehabilitation to an eligible offender who is under the supervision of the division while on probation or other supervised release, or may issue a new certificate of rehabilitation to enlarge the relief previously granted under such certificate of rehabilitation or revoke any such certificate of rehabilitation in accordance with the provisions of section 54-130e of the general statutes, as amended by this act, that are applicable to certificates of rehabilitation. If the division issues, enlarges the relief previously granted under a certificate of rehabilitation or revokes a certificate of rehabilitation under this section, the division shall immediately file written notice of such action with the Board of Pardons and Paroles.

(b) Not later than October 1, 2015, and annually thereafter, the Court Support Services Division shall submit to the Office of Policy and Management and the Connecticut Sentencing Commission, in such form as the office may prescribe, data regarding the administration of certificates of rehabilitation, which shall include data on the number of certificates issued by the division and the number of certificates revoked by the division.

Sec. 4. (NEW) (*Effective October 1, 2014*) (a) Not later than January 1, 2016, the Connecticut Sentencing Commission shall post data on its Internet web site that the commission received from the Board of Pardons and Paroles pursuant to subsection (l) of section 54-130e of the general statutes, as amended by this act, and the Court Support Services Division of the Judicial Branch pursuant to section 3 of this

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act, and shall update such data on its Internet web site annually thereafter.

(b) The Connecticut Sentencing Commission, or its designee, shall evaluate the effectiveness of provisional pardons and certificates of rehabilitation issued pursuant to section 54-130e of the general statutes, as amended by this act, and certificates of rehabilitation issued pursuant to section 3 of this act, at promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of crime victims and the protection of property. Such evaluation shall continue for a period of three years from October 1, 2015. The commission shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary not later than January 15, 2016, January 15, 2017, and January 15, 2018, on the effectiveness of such provisional pardons and certificates of rehabilitation at promoting such public policy and public interest. Such report shall include recommendations, if any, for amendments to the general statutes governing such provisional pardons and certificates of rehabilitation in order to promote such public policy and public interest.

Sec. 5. Subsections (d) and (e) of section 31-51i of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(d) No employer or [an] employer's agent, representative or designee shall deny employment to a prospective employee solely on the basis that the prospective employee had a prior arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the prospective employee had a prior conviction for which the prospective employee has received a provisional pardon or certificate of rehabilitation pursuant to section 54-130a, as amended by this act, or a certificate of rehabilitation pursuant to section 3 of this act.

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(e) No employer or [an] employer's agent, representative or designee shall discharge, or cause to be discharged, or in any manner discriminate against, any employee solely on the basis that the employee had, prior to being employed by such employer, an arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the employee had, prior to being employed by such employer, a prior conviction for which the employee has received a provisional pardon or certificate of rehabilitation pursuant to section 54-130a, as amended by this act, or a certificate of rehabilitation pursuant to section 3 of this act.

Sec. 6. Subsection (c) of section 46a-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if, after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state [] or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought. In making a determination under this subsection, the state or any of its agencies shall give consideration to a provisional pardon issued pursuant to section 54-130e, as amended by this act, or a certificate of rehabilitation issued pursuant to section 54-130e, as amended by this act, or section 3 of this act, and such provisional pardon or certificate of rehabilitation shall establish a presumption that such applicant has been

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rehabilitated. If an application is denied based on a conviction for which the applicant has received a provisional pardon or certificate of rehabilitation, the state or any of its agencies, as the case may be, shall provide a written statement to the applicant of its reasons for such denial.

Sec. 7. (NEW) (*Effective October 1, 2014*) There shall be a rebuttable presumption against admission of evidence of the prior criminal conviction of an applicant or employee in an action alleging that an employer has been negligent in hiring an applicant or retaining an employee, or in supervising the employer's agent, representative or designee with respect to hiring an applicant or retaining an employee, if the applicant or employee held a valid provisional pardon or certificate of rehabilitation at the time such alleged negligence occurred and a party establishes, by a preponderance of the evidence, that the employer knew that the applicant or employee held a valid provisional pardon or certificate of rehabilitation at the time such alleged negligence occurred. For the purposes of this section, "employer" has the same meaning as provided in section 31-51i of the general statutes, as amended by this act.

Sec. 8. Subsection (d) of section 54-124a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(d) The chairperson shall be the executive and administrative head of said board and shall have the authority and responsibility for (1) overseeing all administrative affairs of the board, (2) assigning members to panels, (3) establishing procedural rules for members to follow when conducting hearings, reviewing recommendations made by employees of the board and making decisions, (4) adopting policies in all areas of pardons and paroles including, but not limited to, granting pardons, commutations of punishments or releases, conditioned or absolute, in the case of any person convicted of any

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offense against the state and commutations from the penalty of death, risk-based structured decision making and release criteria, (5) consulting with the Department of Correction on shared issues including, but not limited to, prison overcrowding, (6) consulting with the Judicial [Department] Branch on shared issues of community supervision, and (7) signing and issuing subpoenas to compel the attendance and testimony of witnesses at parole proceedings. Any such subpoena shall be enforceable to the same extent as subpoenas issued pursuant to section 52-143.

Sec. 9. Subsection (b) of section 31-51i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(b) No employer or [an] employer's agent, representative or designee may require an employee or prospective employee to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

Approved May 16, 2014