



General Assembly

Substitute Bill No. 6582

January Session, 2013



**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:

1 Section 1. Section 54-130a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

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

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

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

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

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

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

36 Sec. 2. Section 54-130e of the general statutes is repealed and the
37 following is substituted in lieu thereof (*Effective October 1, 2013*):

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

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

45 (2) "Direct relationship" means that the nature of criminal conduct
46 for which a person was convicted has a direct bearing on the person's
47 fitness or ability to perform one or more of the duties or

48 responsibilities necessarily related to the applicable employment or
49 license;

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

56 [(2)] (4) "Eligible offender" means a person who has been convicted
57 of a crime or crimes in this state or another jurisdiction and who is a
58 resident of this state and (A) is applying for a provisional pardon or is
59 under the jurisdiction of the Board of Pardons and Paroles, or (B) with
60 respect to a certificate of rehabilitation under section 3 of this act, is
61 under the supervision of the Court Support Services Division of the
62 Judicial Branch;

63 [(3)] (5) "Employment" means any remunerative work, occupation
64 or vocation or any form of vocational training, but does not include
65 employment with a law enforcement agency;

66 [(4)] (6) "Forfeiture" means a disqualification or ineligibility for
67 employment or a license by reason of law based on an eligible
68 offender's conviction of a crime;

69 [(5)] (7) "License" means any license, permit, certificate or
70 registration that is required to be issued by the state or any of its
71 agencies to pursue, practice or engage in an occupation, trade,
72 vocation, profession or business; and

73 [(6)] (8) "Provisional pardon" means a form of relief from barriers or
74 forfeitures to employment or the issuance of licenses granted to an
75 eligible offender by the Board of Pardons and Paroles pursuant to
76 subsections (b) to (i), inclusive, of this section.

77 (b) The Board of Pardons and Paroles may issue a provisional

78 pardon or a certificate of rehabilitation to relieve an eligible offender of
79 barriers or forfeitures by reason of such person's conviction of the
80 crime or crimes specified in such provisional pardon or certificate of
81 rehabilitation. Such provisional pardon or certificate of rehabilitation
82 may be limited to one or more enumerated barriers or forfeitures or
83 may relieve the eligible offender of all barriers and forfeitures. Such
84 certificate of rehabilitation shall be labeled by the board as a
85 "Certificate of Employability" or a "Certificate of Suitability for
86 Licensure", or both, as deemed appropriate by the board. No
87 provisional pardon or certificate of rehabilitation shall apply or be
88 construed to apply to the right of such person to retain or be eligible
89 for public office.

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

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

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

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

107 (3) The relief to be granted by the provisional pardon or the
108 certificate of rehabilitation is consistent with the public interest in

109 public safety, the safety of any victim of the offense and the protection
110 of property.

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

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

124 (g) If a provisional pardon or a certificate of rehabilitation is issued
125 by the board [while an eligible offender is on probation or parole]
126 pursuant to this section before an eligible offender has completed
127 service of the offender's term of incarceration, probation or parole, or
128 any combination thereof, the provisional pardon or the certificate of
129 rehabilitation shall be deemed to be temporary until the [person]
130 eligible offender completes such [person's period of] eligible offender's
131 term of incarceration, probation or parole. During the period that such
132 provisional pardon or certificate of rehabilitation is temporary, the
133 board may revoke such provisional pardon or certificate of
134 rehabilitation for a violation of the conditions of such [person's]
135 eligible offender's probation or parole. After the eligible offender
136 completes such eligible offender's term of incarceration, probation or
137 parole, the temporary provisional pardon or certificate of rehabilitation
138 shall become permanent.

139 (h) The board may at any time issue a new provisional pardon or
140 certificate of rehabilitation to enlarge the relief previously granted, and

141 the provisions of subsections (b) to (f), inclusive, of this section shall
142 apply to the issuance of any new provisional pardon or certificate of
143 rehabilitation.

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

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

157 (k) Not later than October 1, 2014, and annually thereafter, the
158 board shall submit to the Office of Policy and Management, in such
159 form as the office may prescribe, data on the number of applications
160 received for provisional pardons and certificates of rehabilitation, the
161 number of applications denied, the number of applications granted
162 and the number of provisional pardons and certificates of
163 rehabilitation revoked.

164 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The Court Support
165 Services Division of the Judicial Branch may issue a certificate of
166 rehabilitation to an eligible offender who is under the supervision of
167 the division while on probation or other supervised release, or may
168 issue a new certificate of rehabilitation to enlarge the relief previously
169 granted under such certificate of rehabilitation or revoke any such
170 certificate of rehabilitation in accordance with the provisions of section
171 54-130e of the general statutes, as amended by this act, that are
172 applicable to certificates of rehabilitation. If the division issues,

173 enlarges the relief previously granted under a certificate of
174 rehabilitation or revokes a certificate of rehabilitation under this
175 section, the division shall immediately file written notice of such action
176 with the Board of Pardons and Paroles.

177 (b) Not later than October 1, 2014, and annually thereafter, the Court
178 Support Services Division shall submit to the Office of Policy and
179 Management, in such form as the office may prescribe, data regarding
180 the administration of certificates of rehabilitation, which shall include
181 data on the number of certificates issued by the division and the
182 number of certificates revoked by the division.

183 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) Not later than January 1,
184 2015, the Connecticut Sentencing Commission shall post data on its
185 Internet web site that the commission received from the Board of
186 Pardons and Paroles pursuant to subsection (k) of section 54-130e of
187 the general statutes, as amended by this act, and the Court Support
188 Services Division of the Judicial Branch pursuant to section 3 of this
189 act, and shall update such data on its Internet web site annually
190 thereafter.

191 (b) The Connecticut Sentencing Commission, or its designee, shall
192 evaluate the effectiveness of provisional pardons and certificates of
193 rehabilitation issued pursuant to section 54-130e of the general
194 statutes, as amended by this act, and certificates of rehabilitation
195 issued pursuant to section 3 of this act, at promoting the public policy
196 of rehabilitating ex-offenders consistent with the public interest in
197 public safety, the safety of crime victims and the protection of
198 property. Such evaluation shall continue for a period of three years
199 from October 1, 2014. The commission shall submit a report to the joint
200 standing committee of the General Assembly having cognizance of
201 matters relating to the judiciary not later than January 15, 2015,
202 January 15, 2016, and January 15, 2017, on the effectiveness of such
203 provisional pardons and certificates of rehabilitation at promoting
204 such public policy and public interest. Such report shall include
205 recommendations, if any, for amendments to the general statutes

206 governing such provisional pardons and certificates of rehabilitation in
207 order to promote such public policy and public interest.

208 Sec. 5. Subsections (d) and (e) of section 31-51i of the general
209 statutes are repealed and the following is substituted in lieu thereof
210 (*Effective October 1, 2013*):

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

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

230 Sec. 6. Subsection (c) of section 46a-80 of the general statutes is
231 repealed and the following is substituted in lieu thereof (*Effective*
232 *October 1, 2013*):

233 (c) A person may be denied employment by the state or any of its
234 agencies, or a person may be denied a license, permit, certificate or
235 registration to pursue, practice or engage in an occupation, trade,
236 vocation, profession or business by reason of the prior conviction of a

237 crime if, after considering (1) the nature of the crime and its
238 relationship to the job for which the person has applied; (2)
239 information pertaining to the degree of rehabilitation of the convicted
240 person; and (3) the time elapsed since the conviction or release, the
241 state [] or any of its agencies determines that the applicant is not
242 suitable for the position of employment sought or the specific
243 occupation, trade, vocation, profession or business for which the
244 license, permit, certificate or registration is sought. In making a
245 determination under this subsection, the state or any of its agencies
246 shall give consideration to a provisional pardon issued pursuant to
247 section 54-130e, as amended by this act, or a certificate of rehabilitation
248 issued pursuant to section 54-130e, as amended by this act, or section 3
249 of this act, and such provisional pardon or certificate of rehabilitation
250 shall establish a presumption that such applicant has been
251 rehabilitated. If an application is denied based on a conviction for
252 which the applicant has received a provisional pardon or certificate of
253 rehabilitation, the state or any of its agencies, as the case may be, shall
254 provide a written statement to the applicant of its reasons for such
255 denial.

256 Sec. 7. (NEW) (*Effective October 1, 2013*) There shall be a rebuttable
257 presumption against admission of evidence of the prior criminal
258 conviction of an applicant or employee in an action alleging that an
259 employer has been negligent in hiring an applicant or retaining an
260 employee, or in supervising the employer's agent, representative or
261 designee with respect to hiring an applicant or retaining an employee,
262 if the applicant or employee held a valid provisional pardon or
263 certificate of rehabilitation at the time such alleged negligence occurred
264 and a party establishes, by a preponderance of the evidence, that the
265 employer knew that the applicant or employee held a valid provisional
266 pardon or certificate of rehabilitation at the time such alleged
267 negligence occurred. For the purposes of this section, "employer" has
268 the same meaning as provided in section 31-51i of the general statutes,
269 as amended by this act.

270 Sec. 8. Subsection (d) of section 54-124a of the general statutes is
 271 repealed and the following is substituted in lieu thereof (*Effective*
 272 *October 1, 2013*):

273 (d) The chairperson shall be the executive and administrative head
 274 of said board and shall have the authority and responsibility for (1)
 275 overseeing all administrative affairs of the board, (2) assigning
 276 members to panels, (3) establishing procedural rules for members to
 277 follow when conducting hearings, reviewing recommendations made
 278 by employees of the board and making decisions, (4) adopting policies
 279 in all areas of pardons and paroles including, but not limited to,
 280 granting pardons, commutations of punishments or releases,
 281 conditioned or absolute, in the case of any person convicted of any
 282 offense against the state and commutations from the penalty of death,
 283 risk-based structured decision making and release criteria, (5)
 284 consulting with the Department of Correction on shared issues
 285 including, but not limited to, prison overcrowding, (6) consulting with
 286 the Judicial [Department] Branch on shared issues of community
 287 supervision, and (7) signing and issuing subpoenas to compel the
 288 attendance and testimony of witnesses at parole proceedings. Any
 289 such subpoena shall be enforceable to the same extent as subpoenas
 290 issued pursuant to section 52-143.

291 Sec. 9. Subsection (b) of section 31-51i of the general statutes is
 292 repealed and the following is substituted in lieu thereof (*Effective*
 293 *October 1, 2013*):

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	54-130a

Sec. 2	<i>October 1, 2013</i>	54-130e
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	31-51i(d) and (e)
Sec. 6	<i>October 1, 2013</i>	46a-80(c)
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	54-124a(d)
Sec. 9	<i>October 1, 2013</i>	31-51i(b)

JUD *Joint Favorable Subst.*