

Provisional Pardon bill signed into law in CT – modeled after National HIRE Network’s Model “Certificate of Rehabilitation”

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What’s in a name?

What started as a Provisional Pardon, and then became a Certificate of Employability and Rehabilitation, came full circle on May 3, 2006 and was passed as a Provisional Pardon in both the house and senate chambers on the last day of the CT General Assembly legislative session.

Signed into law on May 26, 2006 by CT Governor M. Jodi Rell, **Public Act No. 06-187** is an omnibus budget implementer bill that, among its diverse policy implications, includes the statutory authorization for provisional pardons.

What do provisional pardons entail?

The following is a bill summary, as written by the CGA non-partisan Office of Legislative Research:

§§ 84-87 PROVISIONAL PARDONS

The bill authorizes the Board of Pardons and Paroles to issue provisional pardons to relieve offenders of certain barriers or forfeitures due to their conviction of crimes named in the provisional pardon. The bill allows the board to issue a provisional pardon anytime after sentencing to a person who applies for one or who is under the board's jurisdiction if (1) the person was convicted of a crime in Connecticut or another jurisdiction and resides in the state, (2) the relief in the provisional pardon may promote the public policy of rehabilitating ex-offenders through employment, and (3) the relief in the provisional pardon is consistent with the public's interest in public safety and protecting property.

It prohibits employers from denying employment to a prospective employee or discharging or discriminating against an employee solely on the basis of a conviction that occurred before his employment for which the person received a provisional pardon. Under current law, these prohibitions apply to prior arrests, criminal charges, or legally erased records of convictions (for delinquencies, families with service needs, youthful offenders, criminal charges that were dismissed or nolle, criminal charges resulting in not guilty verdicts, and pardoned convictions).

EFFECTIVE DATE: October 1, 2006

Barriers and Forfeitures

Under the bill, the provisional pardon can apply to all of the eligible barriers or forfeitures or it can specify particular ones. It can limit the provisional pardon to specific types of employment or licenses for which the offender is otherwise qualified.

A “barrier” is the denial of employment or a license because of a criminal conviction without considering whether the nature of the crime bears a direct relationship to the employment or license. A “forfeiture” is a disqualification or ineligibility for employment or a license by reason of law based on the offender's criminal conviction.

“Employment” is any remunerative work, occupation, vocation, or any form of vocational training but not employment with law enforcement.

A “license” is any license, permit, certificate, or registration the state or any of its agencies require to pursue, practice, or engage in an occupation, trade, vocation, profession, or business.

The provisional pardon cannot apply to eligibility for or the right to retain public office.

Issuing Provisional Pardons

To determine whether to issue a provisional pardon, the board can have its staff investigate the applicant and submit a report. If written, the report is confidential and cannot be disclosed except as required or permitted by statute or on the board's specific authorization.

A provisional pardon issued while an offender is on probation or parole is temporary and the board can revoke it for a probation or parole violation.

At any time, the board can follow the same procedures the bill establishes for original provisional pardons to issue new ones that enlarge the initial relief granted.

The board creates the forms and prescribes the contents for provisional pardons and their applications, investigative reports, and revocations.

When it grants a provisional pardon, the bill requires the board to provide written notification to the clerk of the court where the person was convicted. This does not erase the conviction record and the person must still disclose the conviction as may be required.

So why and how did this new law come about?

For the past few years, CT lawmakers and executive branch criminal justice agencies have been focusing efforts on successful re-entry of those leaving the state's prisons and jails. In 2004 and

2005, both major and minor pieces of legislation passed the CGA with the intention of assisting these efforts. A statewide criminal justice policy conference, held in January at Central CT State University in New Britain, CT, provided an opportunity to discuss preparations for the upcoming 2006 legislative session. Policymakers looked to the dialogue and presentations occurring during the two days in January for specific recommendations that would further CT's legislative efforts in the area of prisoner reentry. The National HIRE Network's suggestion for the "Certificates of Employability" legislation presented itself as a worthwhile undertaking.

To plan for the upcoming session a group of CT legislators, advocates, agency personnel and HIRE staff met with the intention of drafting initial language for the "Certificates of Employability" legislation. The main agency involved, CT's Board of Pardons and Parole, brought their own version of the concept to the table. Although it had the same intended outcome, for the purposes of continuity within the pardons vernacular, they called it a Provisional Pardon. Out of these sessions, draft language was produced.

When the 2006 legislative session began in February, Rep. Michael Lawlor, a co-sponsor of the January Conference, CGA Judiciary Committee Chair, and active participant in the aforementioned dialogue, introduced HB 5781 AAC CERTIFICATES OF EMPLOYABILITY AND REHABILITATION. Shortly thereafter a public hearing was held on the proposed legislation where HIRE gave expert testimony on the benefit of creating a mechanism for removing barriers to employment for qualified jobseekers with criminal records (to read HIRE's testimony, please [click here](#)). The bill subsequently passed out of the Judiciary Committee with a 36-2 vote.

Upon passing a few other committees of cognizance, the bill landed on the House Floor. House leaders then made the decision to insert most of the original provisions in the omnibus budget implementer. It was in that form that the bill passed both the House and Senate Chamber and was eventually signed into law.