



Major Provisions of Article 6, Chapter 15A, North Carolina General Statutes

“Certificate of Relief”

Background:

- June 2008, the steering committee of the NC Second Chance Alliance¹ convened and created a template of policy barriers facing people with criminal records. Barriers to employment and occupational licensing were at the top of the list.
- March 2009, the Second Chance Alliance convinced legislative representatives to sponsor an Ex-Offender Reentry Study Bill—HB 527; SB 496. Second Chance Alliance members were major contributors to the content of the bill.
- May 2009, Governor Beverly Perdue signed Executive Order 12, “Governor’s StreetSafe Task Force to Stop Repeat Offenders.” Several members of the Second Chance Alliance served on various subcommittees of the Task Force.
- July 2009, Governor Perdue and a bipartisan group of state leaders requested and received technical assistance from the Council of State Governments (CSG) to use a data-driven “Justice Reinvestment” approach to develop a statewide policy framework to reduce spending on corrections and reinvest in strategies to increase public safety. Several Second Chance Alliance members participated in meetings and interviews with CSG Justice Center staff.
- August 2009, the Second Chance Alliance drafted Reentry Policy Principles that the Alliance used to guide the work of the Governor’s Reentry Task Force and CSG.
- January 2010, the NC General Assembly created the Joint Select Committee on Ex-Offender Reintegration Into Society. Second Chance Alliance members actively participated in the sub-committee hearings.
- September 2010, The Governor’s StreetSafe Task Force issued their formal recommendations, which included a recommendation for a “Certificate of Relief”. The State Attorney General publicly supported adoption of this legislation.
- January 2011, The Joint Select Committee on Ex-Offender Reintegration Into Society issued their formal recommendations, which included a formal relief mechanism from the collateral consequences of conviction.
- April 2011, The Certificate of Relief Act was introduced in the General Assembly with bipartisan support.
- April 2011, the Second Chance Alliance held the first Second Chance Lobby Day at the North Carolina General Assembly. Over 200 formerly incarcerated people, service providers, and concerned citizens attended this ground breaking event.
- June 2011, Governor Perdue signed HB 641—Certificate of Relief Act.

¹ The NC Second Chance Alliance is a growing statewide alliance of advocacy organizations, service providers, faith-based organizations, community leaders and interested citizens that have come together to achieve the safe and successful reintegration of adults and juveniles returning home from incarceration by promoting policies that remove barriers to productive citizenship. The Southern Coalition for Social Justice is one of the founding organizations of the NC Second Chance Alliance.

Major Provisions of the Act:

- **Certificate of Relief:** Modeled after the Uniform Collateral Consequences of Conviction Act, allows a person convicted of a crime in North Carolina to apply for a Certificate relieving him of the collateral consequences associated with a conviction. The legislation specifically defines two types of collateral consequences: collateral sanctions and disqualifications.
 - “Collateral sanction” defined as a penalty imposed by operation of law. In other words the imposition of the consequence is mandatory or automatic.
 - “Disqualification” defined as a penalty that an agency may impose based on the conviction. Thus, the decision maker is not required to impose the consequence but exercises their discretion whether to impose the consequence or not.
- **Who is eligible?** A person may obtain a Certificate if they have been convicted of any combination of two or fewer Class G, H, or I felonies, or misdemeanors of any class from one session of court. Moreover, granting the petition must not pose an unreasonable risk to the safety of the public. In addition, the petitioner must have:
 - No other felony or misdemeanor convictions except for a traffic violation
 - 12 months of “clean time”² since the completion of their sentence
 - A lawful occupation or be seeking a lawful occupation
 - Complied with all requirements of the sentence, including any terms of probation
- **What’s the effect?** A Certificate relieves the person of all mandatory “collateral sanctions”³. However, the Certificate does not prevent an agency from imposing “disqualifications” based on convictions, but the Certificate may be used as evidence of rehabilitation to guide the discretion of the oversight body.
- **Can a Certificate be changed?** A Certificate can be enlarged, if it contained previous limitations, and it can be limited or revoked if the Court finds just cause by a preponderance of the evidence. Just cause includes a subsequent felony or misdemeanor conviction.
- **Evidence of Due Care:** A Certificate is a bar to any civil action alleging lack of due care if the person against whom the proceeding is brought knew about the Certificate at the time of the alleged negligence. This bar applies to any judicial or administrative action relating to hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the Certificate was issued.

For additional information on collateral consequences, certificates of relief, expungement, or other relief from criminal convictions in North Carolina please contact:

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² Meaning the person has no criminal charges pending and has not violated the terms of any criminal sentence.

³ Except for those listed in N.C. G.S. 15A-173.3; those imposed by the North Carolina Constitution or federal law; and those specifically excluded in the certificate.