

2013 -- S 0358 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- ESTABLISHMENT OF
A CERTIFICATE OF RECOVERY & RE-ENTRY

Introduced By: Senators Metts, Jabour, Pichardo, Crowley, and Goodwin

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 13 of the General Laws entitled "CRIMINALS - CORRECTIONAL
2 INSTITUTIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 8.2

4 CERTIFICATE OF GOOD RECOVERY & RE-ENTRY

5 **13-8.2-1. Certificate of recovery & re-entry established -- Findings of the general**
6 **assembly and purposes. --** There is hereby established a certificate of recovery & re-entry for
7 individuals that are convicted of a crime in which their legal status and ability to seek and
8 maintain employment changes forever. A criminal record may prohibit individuals from
9 successfully obtaining jobs, occupational licenses, housing and other benefits and opportunities
10 available to all other individuals. These restrictions are often narrowly tailored and serve to
11 protect society against an unidentified public safety risk, but others are arbitrary, unnecessary and
12 without regard to any post-conviction rehabilitation or recovery & re-entry. Individuals who have
13 successfully completed their board-imposed sentences need to be able to reestablish themselves
14 as law-abiding members of society. At the same time, employers and other decision-makers need
15 to have some reassurance of a person's reliability. Therefore, the intent and purpose of this
16 chapter is to provide a process that would, in select and appropriate cases, allow the issuance of a
17 certificate of recovery & re-entry. Said certificate, if granted by the parole board, would serve to
18 relieve the petitioner, in appropriate cases, of some of the collateral consequences resulting from

1 his or her criminal record. Said certificate shall serve as one determining factor as to whether the
2 petitioner has been successful in his or her rehabilitation.

3 **13-8.2-2. Definitions.** -- As used in this chapter the following words and terms shall have
4 the following meanings:

5 (1) "Board" means the parole board within the Rhode Island department of corrections,
6 established pursuant to the provisions of section 13-8-1.

7 (2) "Department" means the department of corrections.

8 (3) "Director" means the director of the department of corrections.

9 (4) "Eligible Petitioner" means a person who has not been convicted of a crime or of an
10 offense as defined in RIGL subdivision 11-47-2(2) and in RIGL subdivision 12-1.3-1(1) who has
11 not been convicted of more than one felony.

12 (5) "Certificate of recovery & re-entry " or "Certificate" shall serve as one determining
13 factor, consistent with concerns of public safety, of the person's ability to obtain employment,
14 professional licenses, housing and other benefits and opportunities. Provided, further, that said
15 instrument shall serve as a determination that the person receiving it has successfully achieved his
16 or her recovery & re-entry goals as provided for in section 13-8.2-4.

17 (6) "Conviction" notwithstanding the provisions of section 12-18-3, means the imposition
18 of a fine, period of incarceration whether or not suspended, probation or deferred sentence
19 imposed after the entry of a plea of nolo contendere.

20 (7) "Petition" means the motion, pleading, or other legal document or form seeking the
21 issuance of a certificate of recovery & re-entry from the board.

22 (8) "Felony" means a conviction of a felony in this state or of an offense, that is not a
23 crime of violence, in any other jurisdiction for which a sentence to a term of imprisonment in
24 excess of one year, was authorized. Criminal acts committed outside the state shall be classified
25 as acts committed within the state.

26 **13-8.2-3. Rules of construction.** -- For the purposes of this chapter the following rules of
27 construction, facts and circumstances shall apply:

28 (1) Two (2) or more convictions of felonies charged in separate counts of one indictment
29 or information shall be deemed to be one conviction;

30 (2) Two (2) or more convictions of felonies charged in two (2) or more separate
31 indictments or information, where disposition of all indictments or information takes place on the
32 same date, shall be deemed to be one conviction; and

33 (3) A plea or verdict of guilty upon which a sentence of probation, conditional discharge,
34 or supervision has been imposed shall be deemed to be a conviction.

1 **13-8.2-4. Procedure for issuance of certificate.** -- The board shall have the following
2 procedures for certificate of recovery & re-entry hearings:

3 (1) To hear petitions from individuals seeking an order granting the issuance of a
4 certificate of recovery & re-entry.

5 (2) To establish the minimum period of recovery & re-entry for individuals referred to in
6 subdivision (1) of this section, as follows:

7 (i) Where the most serious crime of which the individual was convicted is a
8 misdemeanor, the minimum period of recovery & re-entry shall be one year;

9 (ii) Where the most serious crime of which the individual was convicted is a non-violent
10 felony conviction, the minimum period of recovery & re-entry shall be three (3) years; and

11 (iii) The minimum period of recovery & re-entry by the individual shall be measured
12 either from the date of the payment of any fine imposed upon him or her, or from the date of his
13 or her release from the institutional facility, custody by parole or home confinement, whichever is
14 later.

15 (3) To classify criminal acts committed outside the state as acts committed within the
16 state based on the non violent nature of the criminal acts and the maximum sentence that could
17 have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction.

18 (4) To use its discretion as to the holding of an open hearing or an individual conference
19 on any matter relevant to the granting of the application and the taking of testimony under oath.

20 **13-8.2-5. Powers and duties of the board.** -- (a) The board shall have the power to issue
21 and establish criteria to determine eligibility for issuance of the certificate of recovery & re-entry;

22 (b) By an affirmative vote of a majority of the members of the board to issue a certificate
23 of recovery & re-entry to any person previously convicted of a crime in any jurisdiction;

24 (c) To create all applications, and certificates necessary for the purposes of this chapter
25 upon forms prescribed by the board. Such forms relating to certificates of recovery & re-entry
26 shall be distributed by the chairman of the board;

27 (d) To promulgate all necessary rules and regulations to carry out the intent of this
28 chapter; and

29 (e) Any information contained within a certificate of recovery & re-entry as created in
30 subsection (c) of this section shall be limited to:

31 (i) The applicant's name;

32 (ii) Date of birth;

33 (iii) Certificate number;

34 (iv) Issue date;

1 (v) A statement that "The board has determined that up to and including the issue date
2 stated above, this individual has met the necessary standards of recovery & re-entry to hold the
3 certificate"; and

4 (vi) Authentication phone number for the department of corrections.

5 **13-8.2-6. Limitations and restrictions of certificate. -- (a) Nothing contained in this**
6 chapter shall be deemed:

7 (1) Destruction or sealing of criminal records pursuant to section 12-1-12; or

8 (2) Expungement of criminal records pursuant to sections 12-1.3-1 through 4; or

9 (3) To alter or limit or affect the manner of applying for pardons to the

10 Governor;

11 (b) The certificate shall not to be deemed to prevent:

12 (1) Any judicial proceeding, administrative, licensing or other body, or authority from
13 relying upon the conviction specified in the certificate as the basis for the exercise of its
14 discretionary power to suspend, revoke, or refuse to issue or renew any license, permit, or other
15 authority or privilege.

16 (2) Or limit the introduction of evidence of a prior conviction for purposes of
17 impeachment of a witness in a judicial or other proceeding where otherwise authorized by the
18 applicable rules of evidence.

19 (3) The enhancement from misdemeanor to felony when charging an individual with a
20 criminal offense, subsequent to the conviction on which the certificate was issued, when a prior
21 conviction mandates such enhancement of subsequent charges.

22 **13-8.2-7. Severability. -- If any provision of this chapter or its application to any person**
23 or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not
24 affect other provisions or applications of this chapter which can be given effect without the
25 invalid or unconstitutional provision or application, and to this end the provisions of this chapter
26 are declared to be severable.

27 **13-8.2-8. Immunity for third-party individuals -- Civil and criminal. -- An individual**
28 or entity that denies employment, professional licensing, housing or other benefits or
29 opportunities to a holder of a certificate of recovery & re-entry on the basis of a criminal records
30 check shall not be liable for civil damages or subject to any claim, demand, cause of action, or
31 proceeding of any nature as a result of such denial.

32 SECTION 2. This act shall take effect one year from the date of passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- ESTABLISHMENT OF
A CERTIFICATE OF GOOD CONDUCT

1 This act would authorize the parole board to issue certificates of recovery & re-entry to
2 individuals convicted of certain crimes who establish their successful rehabilitation to the
3 satisfaction of the parole board.

4 This act would take effect one year from the date of passage.

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