

ASSEMBLY, No. 2178

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Provides for issuance of certificate of rehabilitation to certain offenders with substance abuse disorders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the rehabilitation of criminal offenders and
 2 supplementing Title 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6

7 1. a. Notwithstanding the provisions of any law or regulation, a
 8 certificate may be issued in accordance with the provisions of this act
 9 to a person who:

10 (1) has a substance use disorder;

11 (2) has one or more convictions for a crime or offense pursuant
 12 to the provisions of Title 2C of the New Jersey Statutes;

13 (3) has refrained from the use of drugs and alcoholic beverages
 14 for a minimum of five years;

15 (4) has not been convicted of a crime within the past three years;

16 (5) affirmatively demonstrates rehabilitation by clear and
 17 convincing evidence; and

18 (6) has been found by a certified addiction professional to be in
 19 remission and stable in recovery.

20 b. A certificate may be issued pursuant to the provisions of this
 21 act at any time after sentencing by the court that pronounced the most
 22 recent judgment or the State Parole Board.

23 c. For the purposes of this act, a person has a substance use
 24 disorder if the person has been evaluated by a certified addiction
 25 professional and found to have a substance use disorder as defined in
 26 the most current Diagnostic and Statistical Manual of Mental
 27 Disorders.

28 d. For the purposes of paragraph (2) of subsection a. of this
 29 section, a certificate may be issued to a person who has been convicted
 30 of one or more offenses or crimes of the first, second, third, or fourth
 31 degree, or one or more disorderly persons offenses, in multiple
 32 indictments, accusations, or judgments, by multiple courts.

33 e. In determining whether clear and convincing evidence of
 34 rehabilitation has been demonstrated, the following factors, if
 35 applicable, shall be considered:

36 (1) nature and seriousness of the crime;

37 (2) circumstances under which the crime occurred;

38 (3) date of the crime;

39 (4) age of the person when the crime was committed;

40 (5) social and medical conditions which may have contributed to
 41 the crime;

42 (6) any evidence of rehabilitation, including good conduct in
 43 prison or in the community;

44 (7) successful participation in addiction treatment;

45 (8) successful participation in counseling or psychiatric
 46 treatment;

47 (9) successful participation in available prison programs;

48 (10) successful participation in available community programs or
 49 correctional work-release programs;

- 1 (11) successful participation in self-help groups or religious
- 2 programs;
- 3 (12) successful participation in school or work;
- 4 (13) volunteerism;
- 5 (14) evaluations of the person by employers, program staffs, or
- 6 teachers;
- 7 (15) letters or testimony from others including, but not limited to,
- 8 relatives or persons who are acquainted with the applicant through
- 9 religious affiliation, a twelve-step network, or sponsorship;
- 10 (16) evaluations or recommendations of persons who have
- 11 supervised the applicant during employment;
- 12 (17) evaluations or recommendations of persons who have
- 13 interacted with the applicant through participation in a program,
- 14 addiction treatment, or volunteerism;
- 15 (18) steps the applicant has taken to qualify for the license or
- 16 employment;
- 17 (19) whether the individual is qualified for the license or
- 18 employment, but for a statutory or regulatory bar pertaining to the
- 19 conviction; and
- 20 (20) whether the person is alcohol or drug dependent or a certified
- 21 addiction professional found the person to be in remission and stable
- 22 in recovery.

23 2. The certificate issued pursuant to this section shall supersede
24 all laws to the contrary, suspend and relieve all disabilities and
25 forfeitures imposed by law by reason of the individual's conviction
26 of any crime or offense enumerated in the certificate, and remove
27 any bars to employment or professional licensure or certification
28 applicable to persons convicted of criminal offenses, except as
29 required pursuant to federal statute or the provisions of section 3 of
30 this act.

31
32 3. a. An application for employment by a person who has been
33 issued a certificate of rehabilitation shall not be denied by reason of
34 the applicant having been previously convicted of one or more
35 crimes or offenses, or by reason of a finding of lack of "good moral
36 character" when such finding is based upon the fact that the
37 applicant has previously been convicted of one or more crimes or
38 offenses except when:

39 (1) there is a direct relationship between one or more of the
40 previous crimes or offenses and the specific employment sought;
41 and

42 (2) less than 10 years have elapsed since the commission of the
43 most recent crime other than disorderly persons offenses.

44 b. In making a determination pursuant to subsection a. of this
45 section, the employer shall consider the following:

46 (1) the public policy of this State to encourage employment of
47 persons previously convicted of one or more crimes and offenses;

- 1 (2) the specific duties and responsibilities necessarily related to
- 2 the employment sought;
- 3 (3) the specific bearing if any, the crime for which the offender
- 4 was previously convicted will have on the applicant's fitness or
- 5 ability to perform one or more such duties or responsibilities
- 6 required by the employment;
- 7 (4) the time which has elapsed since the occurrence of the
- 8 crime;
- 9 (5) the age of the offender at the time of occurrence of the
- 10 crime;
- 11 (6) the legitimate interest of the employer in protecting the
- 12 health and safety of specific persons; and
- 13 (7) any information produced by the applicant or on the
- 14 applicant's behalf in regard to the applicant's rehabilitation and
- 15 good conduct.
- 16 c. As used in this section, "direct relationship" means that the
- 17 nature of the criminal conduct for which the person was convicted
- 18 has a direct bearing on the person's fitness or ability to perform one
- 19 or more of the duties or responsibilities necessarily related to the
- 20 license or employment.
- 21
- 22 4. The certificate issued pursuant to this section is considered
- 23 presumptive evidence of rehabilitation. A certificate granted under
- 24 this section shall not prevent any judicial, administrative, licensing
- 25 or other body, board, authority, public official, or employer from
- 26 relying on grounds other than the fact of the criminal conviction in
- 27 exercising any discretionary authority to suspend, revoke, refuse to
- 28 issue, or to refuse to renew any license, permit, or other authority or
- 29 privilege, or to determine eligibility or suitability for employment.
- 30 As used in this section, "license" means any certificate, license,
- 31 permit, or grant of permission required by the laws of this State or
- 32 any political subdivision thereof, or of any instrumentality of this
- 33 State or its political subdivision, as a condition for the lawful
- 34 practice of any act, occupation, employment, trade, vocation,
- 35 business, or profession. License shall not include any license or
- 36 permit to own, possess, carry, or discharge a firearm.
- 37
- 38 5. Disabilities, forfeitures and bars that may be suspended and
- 39 relieved by the certificate issued pursuant to this act include, but are
- 40 not limited to:
- 41 a. Voting rights;
- 42 b. Passport restrictions;
- 43 c. Public and private employment;
- 44 d. Qualification for a license or certification to engage in the
- 45 practice of a profession, occupation, or business;
- 46 e. Admission to an examination to qualify for such a license or
- 47 certificate;
- 48 f. Public or private housing;

- g. Education; and
- h. Motor vehicle licensure, suspension, or revocation.

6. The court or State Parole Board shall not issue a certificate pursuant to the provisions of this act to any person who has been convicted of murder; aggravated manslaughter; manslaughter; vehicular homicide; aggravated assault; disarming a law enforcement officer; kidnapping; terrorism; possessing or producing chemical weapons, biological agents or nuclear or radiological devices; first degree racketeering; booby traps in manufacturing or distribution facilities; false imprisonment; criminal coercion; luring or enticing a child or adult; human trafficking; aggravated sexual assault; sexual assault; aggravated criminal sexual contact; criminal sexual contact; carjacking; arson; extortion; a violation of subsection a. or b. N.J.S.2C:24-4; endangering the welfare of an incompetent person; use of 17 year old or younger to commit criminal offense; official deprivation of civil rights; riot; solicitation, recruitment to join criminal gang; gang criminality; or promotion of an organized street gang.

7. This act shall take effect on the first day of the sixth month next following enactment.

STATEMENT

This bill provides for the issuance of a certificate of rehabilitation by the court or State Parole Board to persons who have a substance abuse disorder and have been convicted of certain crimes.

Under the provisions of the bill, the certificate may be issued to a person who: (1) has a substance use disorder; (2) has one or more convictions for a crime or offense pursuant to the provisions of Title 2C of the New Jersey Statutes (the criminal code); (3) has refrained from the use of drugs and alcoholic beverages for a minimum of five years; (4) has not been convicted of a crime within the past three years; (5) affirmatively demonstrates rehabilitation by clear and convincing evidence; and (6) has been found by a certified addiction professional to be in remission and stable in recovery. A person has a substance use disorder under the bill if the person has been evaluated by a certified addiction professional and found to have a substance use disorder as defined in the most current Diagnostic and Statistical Manual of Mental Disorders.

In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the bill sets forth various factors to be considered by the court or parole board.

The bill provides that an employment application submitted by a person who has been issued a certificate of rehabilitation is not to

1 be denied because the applicant has been previously convicted of
2 one or more crimes or offenses, or by reason of a finding of lack of
3 “good moral character” except when (1) there is a direct
4 relationship between one or more of the previous crimes or offenses
5 and the specific employment sought; and (2) less than 10 years have
6 elapsed since the commission of the most recent crime other than
7 disorderly persons offenses. The bill sets forth the specific factors
8 to be considered by the employer in making this determination.

9 The certificate issued pursuant to the bill is considered
10 presumptive evidence of rehabilitation. The certificate is not to
11 prevent any judicial, administrative, licensing or other body, board,
12 authority, public official, or employer from relying on grounds
13 other than the fact of the criminal conviction in exercising any
14 discretionary authority to suspend, revoke, refuse to issue, or to
15 refuse to renew any license, permit, or other authority or privilege,
16 or to determine eligibility or suitability for employment.

17 Disabilities, forfeitures and bars that may be suspended and
18 relieved by the certificate include, but are not limited to, voting
19 rights; passport restrictions; public and private employment;
20 qualification for a license or certification to engage in the practice
21 of a profession, occupation, or business; admission to an
22 examination to qualify for such a license or certificate; public or
23 private housing; education; and motor vehicle licensure, suspension,
24 or revocation.

25 Finally, the bill provides that persons who have been convicted
26 of certain crimes may not be issued the certificate of rehabilitation.