

Expand Certificates of Relief

(HB 671-Faircloth)

Reduce Recidivism, Strengthen Families, and Preserve State Resources by Restoring Opportunities for Productive Citizenship to North Carolinians with Certain Criminal Records

Modeled on the Uniform Law Commission's Collateral Consequences of Conviction Act, North Carolina's Certificate of Relief Act (S.L. 2011-265) currently allows an individual convicted of two misdemeanor or low-level felony offenses (Classes G-I) in the same session of court to petition the court of conviction for a Certificate of Relief. We propose the General Assembly expand eligibility for Certificates of Relief to individuals with multiple misdemeanor and low-level felony convictions, increase the waiting period for relief to 36-months for certain individuals, and establish a filing fee of \$50.

Expanding Certificates of Relief is supported by: Chief Justice Mark Martin and the NC Equal Access to Justice Commission and Deputy Secretary of Department of Public Safety David Guice, who sponsored the original Act. There is no known opposition. A nearly identical certificate of relief provision passed the House twice last session.

Benefits of a Certificate of Relief

A Certificate of Relief restores opportunities for individuals to be productive, law-abiding citizens in several ways:

1. Transforms certain automatic civil disqualifications into discretionary civil disqualifications (ex. occupational licensing)
2. Provides employers, landlords, and other decision-makers evidence of "due care" that shields them for negligence liability (a 2014 SHRM survey of employers found that more than half cited the fear of negligent hiring liability as a primary reason they do not hire qualified applicants with criminal records)
3. Provides employers, landlords, and other decision-makers additional information and context in determining an applicant's suitability for a specific position or resource

A Certificate of Relief DOES NOT:

- Erase, change, or obscure an individual's criminal record for any purpose
- Allow a certificate holder to deny a criminal conviction(s) occurred
- Force employers, landlords, admissions officials, or licensing agencies to hire, house, admit, or license certificate holders
- Limit the discretion of a presiding judge to deny relief to an eligible individual if the court determines granting relief is not appropriate
- Affect certain automatic civil sanctions exempted from relief (see G.S. 15A-173.3) including:
 - Sex Offense Registration
 - Possession of a firearm by a person with a felony conviction
 - Motor vehicle license revocation or ineligibility
 - Any civil disability imposed by federal law or the North Carolina Constitution

Proposed Bill Provisions

- Expand eligibility for Certificates of Relief to individuals with multiple misdemeanor and low-level felony convictions (Classes G-I)
- Increase waiting period for individuals with several convictions from 12-months to 36-months
- Establish a filing fee of \$50 for a petition for a certificate of relief