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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINALS--CORRECTIONAL INSTITUTIONS -- PAROLE

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

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 13-8 of the General Laws entitled "Parole" is hereby amended by  
2 adding thereto the following section:

3           **13-8-35. Certificates of good conduct.** – (a) Legislative findings and purpose:

4           (1) There is hereby established a certificate of good conduct for certain individuals who  
5 are convicted of a crime which necessarily affects their legal status and ability to seek and  
6 maintain employment. A criminal record may have the effect of restricting such individuals from  
7 successfully obtaining jobs, occupational licenses, housing and other benefits and opportunities  
8 available to other individuals. Some legal restrictions are narrowly tailored to protect society  
9 against an unidentified public safety risk, but others could be seen as arbitrary, unnecessary and  
10 without regard to any post-conviction rehabilitation or good conduct. Some individuals who have  
11 successfully completed their board-imposed sentences demonstrate a need to reestablish  
12 themselves as law-abiding members of society. At the same time, employers and other decision-  
13 makers may desire assurance of a person's reliability. Therefore, the intent and purpose of this act  
14 is to provide a process that would, in select and appropriate cases, allow the issuance of a  
15 certificate of good conduct. Said certificate, if granted by the board, would serve to relieve the  
16 petitioner, in appropriate cases, of some of the collateral consequences resulting from his or her  
17 criminal record. Said certificate would also serve as evidence that the defendant has been  
18 reasonably successful in his or her rehabilitation and therefore is prepared to re-enter society.

19           (b) As used in this section, the following words and terms shall have the following

1 meanings:

2 (1) "Board" means the parole board, established pursuant to the provisions of section 13-  
3 8-1.

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

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

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

9 (5) "Certificate of good conduct" or "certificate" means a legal instrument issued by the  
10 board which shall, consistent with concerns of public safety, have the effect of removing legal  
11 impediments to and restrictions upon the person's ability to obtain employment, professional  
12 licenses, housing and other benefits and opportunities. Said instrument shall serve as a  
13 determination that the person receiving it has, consistent with the concerns of public safety,  
14 successfully achieved his or her rehabilitation and is therefore prepared to re-enter society.

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

18 (7) "Petition" means the motion, pleading, or other legal document or form seeking the  
19 issuance of a certificate of good conduct from the board.

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

24 (c) For the purposes of this section, the following rules of construction apply:

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

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

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

32 (d) The board shall have the following powers and duties relating to certificate of good  
33 conduct hearings:

34 (1) To hear petitions from individuals seeking an order granting the issuance of a

1 certificate of good conduct.

2 (2) To establish the minimum period of good conduct for individuals referred to in  
3 subdivision (d)(1) herein, as follows:

4 (i) Where the most serious crime of which the individual was convicted is a  
5 misdemeanor, the minimum period of good conduct shall be one year;

6 (ii) Where the most serious crime of which the individual was convicted is a nonviolent  
7 felony conviction, the minimum period of good conduct shall be three (3) years; and

8 (iii) The minimum period of good conduct by the individual shall be measured either  
9 from the date of the payment of any fine imposed upon him or her, or from the date of his or her  
10 release from custody by parole, mandatory supervised release or commutation or termination of  
11 his or her incarceration sentence, whichever is later.

12 (3) To classify criminal acts committed outside the state as acts committed within the  
13 state based on the nonviolent nature of the criminal acts and the maximum sentence that could  
14 have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction.

15 (4) Use its discretion in determining whether to hold an open hearing or an individual  
16 conference on any matter relevant to the granting of the application and to take testimony under  
17 oath.

18 (e) The board shall have the power to establish criteria to determine eligibility for  
19 issuance of the certificate of good conduct and, by an affirmative vote of a majority of the  
20 members of the board, to issue a certificate of good conduct to any person previously convicted  
21 of a crime in any jurisdiction.

22 (f) The board shall have the following powers and duties to revoke a certificate:

23 (1) Upon notification of subsequent conviction by a petitioner, said revocation shall be  
24 effective as of the date upon which the person to whom the certificate is issued receives written  
25 notice of such revocation. Any such person upon receipt of such notification shall surrender the  
26 certificate to the issuing board. Any person who knowingly uses or attempts to use, a revoked  
27 certificate of good conduct in order to obtain or to exercise any right or privilege that he would  
28 not be entitled to obtain or to exercise without a valid certificate shall be guilty of a misdemeanor.

29 (g) The board shall have the following additional powers and duties to create the  
30 following forms and filing:

31 (1) To issue all applications, certificates and orders of revocation necessary for the  
32 purposes of this section which shall be upon forms prescribed by the board. Such forms relating  
33 to certificates of good conduct shall be distributed by the chairperson of the board.

34 (2) To immediately file a copy of the certificate, or of the order of revocation, with the

1 Rhode Island bureau of criminal investigation.

2 (3) To require that any information contained within a certificate of good conduct shall be  
3 limited to:

4 (i) The applicant's name;

5 (ii) Date of birth;

6 (iii) Certificate number;

7 (iv) Issue date; and

8 (v) Authentication phone number for department of corrections.

9 (h) Nothing contained in this act shall be deemed to be:

10 (1) Destruction or sealing of criminal records pursuant to Rhode Island general laws  
11 section 12-1-12; or

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

13 (3) An alteration or limitation of the manner of applying for pardons to the governor;

14 (i) The certificate shall not:

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

19 (2) Limit the introduction of evidence of a prior conviction for purposes of impeachment  
20 of witness in a judicial or other proceeding where otherwise authorized by the applicable rules of  
21 evidence.

22 (3) Prevent an enhancement from misdemeanor to felony when charging an individual  
23 with a criminal offense subsequent to the conviction on which the certificate was issued, when a  
24 prior conviction mandates such enhancement of subsequent charges.

25 (j) Severability. – If any provision of this section or its application to any person or  
26 circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not  
27 affect other provisions or applications of this section which can be given effect without the  
28 invalid or unconstitutional provision or application, and to this end the provisions of this section  
29 are declared to be severable.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO CRIMINALS--CORRECTIONAL INSTITUTIONS -- PAROLE

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1           This act would create and establish procedures for issuance of certificates of good  
2           conduct by the parole board to certain individuals who have demonstrated rehabilitation after  
3           conviction of a crime under specific circumstances.

4           This act would take effect upon passage.

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