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SENATE BILL DRS45380-ML-93

Short Title: Amend Certificates of Relief. (Public)

Sponsors: Senators Britt, Batch, and Lazzara (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING A CERTIFICATE OF RELIEF FOR
3 CRIMINAL CONVICTIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 15A-173.2 reads as rewritten:

6 "§ 15A-173.2. Certificate of Relief.

7 (a) An individual who is convicted of no more than (i) three Class H or I felonies and (ii)
8 any misdemeanors may petition the court where the individual was convicted of the most serious
9 offense for a Certificate of Relief relieving collateral consequences as permitted by this Article.
10 If the person is convicted of more than one offense of the same gravity, the petition shall be filed
11 in the county of the most recent and most serious offense. If the person is convicted of more than
12 one Class H or I felony in the same session of court, then the multiple felony convictions shall
13 be treated as one felony conviction under this section. Except as otherwise provided in this
14 subsection, the petition shall be heard by the senior resident superior court judge if the
15 convictions were in superior court, or the chief district court judge if the convictions were in
16 district court. The senior resident superior court judge and chief district court judge in each
17 district may delegate their authority to hold hearings and issue, modify, or revoke Certificates of
18 Relief to judges, clerks, or magistrates in that district. Additionally, the senior resident superior
19 court judge and chief district court judge in each district shall designate a specific judge, clerk,
20 or magistrate to serve as the Certificate of Relief point of contact for that district. Each district's
21 point of contact shall be trained on how to use a shared database containing a list of names, dates
22 of birth, and case numbers of people who have had a Certificate of Relief granted. If a Certificate
23 of Relief is modified, the point of contact for the issuing district shall be responsible for ensuring
24 the shared database is updated with the new information.

25 (b) Except as otherwise provided in G.S. 15A-173.3, the court may issue a Certificate of
26 Relief if, after reviewing the petition, the individual's comprehensive criminal history as provided
27 by the district attorney, any information provided by a victim under G.S. 15A-173.6 or the district
28 attorney, any supporting documentation submitted by the petitioner with the petition, and any
29 other relevant evidence, it finds the individual has established by a preponderance of the evidence
30 all of the following:

31 (1) Twelve months have passed since the individual has completed his or her
32 sentence. For purposes of this subdivision, an individual has not completed
33 his or her sentence until the individual has served all of the active time, if any,
34 imposed for each offense and has also completed any period of probation,
35 post-release supervision, and parole related to the offense that is required by
36 State law or court order.



- 1 (2) The individual is engaged in, or seeking to engage in, a lawful occupation or
2 activity, including employment, training, education, or rehabilitative
3 programs, or the individual otherwise has a lawful source of support.
4 (3) The individual has complied with all requirements of the individual's
5 sentence, including any terms of probation, that may include substance abuse
6 treatment, anger management, and educational requirements.
7 (4) The individual is not in violation of the terms of any criminal sentence, or that
8 any failure to comply is justified, excused, involuntary, or insubstantial.
9 (5) A criminal charge is not pending against the individual.
10 (6) Granting the petition would not pose an unreasonable risk to the safety or
11 welfare of the public or any individual.

12"

13 **SECTION 2.** G.S. 15A-173.4 reads as rewritten:

14 "**§ 15A-173.4. Issuance, modification, and revocation of Certificate of Relief by the court.**

15 (a) When a petition is filed under G.S. 15A-173.2, including a petition for enlargement
16 of an existing Certificate of Relief, the court shall notify the district ~~attorney-attorney, or each~~
17 district attorney for multiple convictions in multiple counties, at least ~~three weeks~~ 30 days before
18 the hearing on the matter. The court may issue a Certificate of Relief subject to restriction,
19 condition, or additional requirement. When issuing, denying, modifying, or revoking a
20 Certificate of Relief, the court may impose conditions for reapplication.

21 (b) The court shall revoke a Certificate of Relief it issued if it finds by a preponderance
22 of the evidence that the individual has a subsequent conviction for an offense in another
23 jurisdiction that is deemed a felony or misdemeanor other than a traffic violation in this State.
24 The court may modify or revoke a Certificate of Relief it issued if it finds by a preponderance of
25 the evidence that the petitioner made a material misrepresentation in the petition for Certificate
26 of Relief. A motion for modification or revocation of a Certificate of Relief may be initiated by
27 the court on its own motion, or upon motion of the district attorney or the individual for whom
28 the Certificate of Relief has been issued. The individual for whom the Certificate of Relief has
29 been issued, and the district attorney, shall be given notice of the motion at least ~~three weeks~~ 30
30 days before any hearing on the matter.

31 (c) The district attorney shall have the right to appear and be heard at any proceeding
32 relating to the issuance, modification, or revocation of the Certificate of Relief.

33 (d) The court is authorized to call upon a probation officer for any additional investigation
34 or verification of the individual's conduct it reasonably believes necessary to its decision to issue,
35 modify, or revoke a Certificate of Relief. If there are material disputed issues of fact or law, the
36 individual and the district attorney may submit evidence and be heard on those issues.

37 (e) The issuance, modification, and revocation of Certificates of Relief shall be a public
38 record."

39 **SECTION 3.** The Administrative Office of the Courts shall develop and maintain
40 the shared database described in G.S. 15A-173.2(a), as amended by Section 1 of this act.

41 **SECTION 4.** Sections 3 and 4 of this act are effective when they become law. The
42 remainder of this act becomes effective December 1, 2021, and applies to petitions filed on or
43 after that date.