

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Strengthen Certificate of Rehabilitation

An Extension to the Justice Reinvestment Act

What's the problem?

On October 2017, Maryland implemented the Justice Reinvestment Act (JRA) which included a Certificate of Rehabilitation for returning citizens. The stated purpose of the Maryland Code, Correctional Services §7-104 is to ensure that licensing and certification boards cannot deny a license solely due to a prior conviction. Unfortunately, many who might benefit from such a certificate are excluded.

- §7-104 applies only to persons who have been supervised by the Division of Parole and Probation (DPP). Thus it blocks persons who
 - completed supervision in another state, but have since established a good record in Maryland.
 - served out their entire sentence without any supervision by DPP.
- §7-104 completely blocks all persons who are required to register, a large number of whom have non-violent offenses.
- Such certificates could be applied more broadly as an asset when a returning citizen seeks employment in any field.

What's the solution?

To include persons who were never under DPP supervision, the law can be changed to indicate a specific period of time (e.g. 3 years) living in Maryland with a clean record.

The restriction against all convicted persons categorized as “violent” under §14-101 of the Criminal Law Article effectively blocks all who committed rape or assault with attempt to rape, and all who as an adult committed an offense against someone under 13 years of age. Other offenses requiring registration are not violent, and thus could qualify for a certificate of rehabilitation.

To assure the certificate can be applied more broadly for use in seeking employment, legislation would only need to add language indicating its value in this context.

Will this work?

Two University of South Carolina criminologists have concluded that employers in Ohio are willing to look beyond the criminal histories of job applicants who have been issued a Certificate of Qualification for Employment (CQE) from a state court. The study found that individuals with a felony drug conviction were more than three times as likely to receive a job interview or offer if they had received a CQE. See:

<http://ccresourcecenter.org/2016/05/25/new-study-suggests-certificates-of-relief-are-working-to-create-jobs/>

California's Certificate of Rehabilitation process, **Penal Code § 4852.01-4852.21** covers a broad range of conviction types, including some persons with sexual offenses (Section 290). Californians as well as persons who have moved to the state and live there offense-free for five years are eligible for the certificate. Additional years to wait are required based on type of offense committed. Petitions are filed with the Court. The code itself does not specify how the Certificate is used, but in practice it has been used by former offenders to successfully apply for work and obtain licenses.

In **Illinois, § 5/5-5.5. Loss and Restoration of Rights**, the court may issue an order at completion of supervision and generate a certificate stating good behavior warranted the order. This is specifically to restore any licenses that have been suspended, if all qualifications are met.

In **New York, Correction Law Article 23 -- Discretionary Relief from Forfeitures and Disabilities**, persons may receive a Certificate of Good Conduct after 1, 3, or 5 years of good conduct, and the certificate may provide relief from only some or all disabilities imposed due to the person's conviction. The state board of parole has the power to issue and revoke certificates based on specific criteria, and the certificates remain provisional until the person has completed any supervision. The certificate is intended to assure employers that the person can be licensed or hired again, assuming there is no overriding concern.

Further Information

"State-Specific Guides to Restoration of Rights, Pardon, Sealing & Expungement," prepared by Margaret Love for the National Association of Criminal Defense Lawyers (NACDL) Restoration of Rights Project, (copyright 2014-2016, Collateral Consequences Resource Center). See: <http://ccresourcecenter.org/resources-2/restoration-of-rights/>

"Study Shows Certificates Work to Create Job Opportunities," May 25, 2016, by Joshua Gaines.
<http://ccresourcecenter.org/2016/05/25/new-study-suggests-certificates-of-relief-are-working-to-create-jobs/>

There are a number of organizations listed on the CCRC website which address re-entry problems. Particularly helpful are the following sites:

- See, for example, Reentry.net, Serving people from arrest to reintegration: <https://www.reentry.net/>
- The Council of State Governments Justice Center: <https://csgjusticecenter.org/reentry/the-reentry-and-employment-project/>
- The Sentencing Project's web section on collateral consequences: <http://www.sentencingproject.org/issues/collateral-consequences/>
- The website for the New Southern Strategy Coalition: <http://newsouthernstrategy.org/>
- The ABA Criminal Justice Section and its materials on collateral consequences: <http://www.abacollateralconsequences.org/>
- Also see the Legal Action Center website, <http://lac.org>. It offers resources pertinent to certificates of rehabilitation such as <http://lac.org/what-we-do/criminal-justice/reducing-criminal-record-barriers-to-employment/>

Many other resources can be found at: <http://www.ma4jr.org/returning-citizens/>

Note: This document contains hyperlinks. To use them, access the online version at: <http://www.ma4jr.org/certificates/>

The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan association of over forty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.