

RECOMMENDED KEY PROVISIONS FOR CERTIFICATE OF REHABILITATION LEGISLATION

The Legal Action Center recommends that all states enact legislation enabling individuals with conviction histories who have demonstrated their rehabilitation and ability to reenter society to obtain certificates that remove automatic barriers and create a presumption of rehabilitation when they seek employment, licensing, benefits, housing and other necessities and privileges.

EFFECT OF CERTIFICATE

- ❑ Require that certificates of rehabilitation be considered by employers along with other factors in weighing the risks and benefits of hiring people with criminal records.
- ❑ Make clear that the effect of having a certificate is removal of automatic bars and creation of the presumption of rehabilitation for purposes of public and private employment, licensing, benefits, civil rights, housing, or other considerations that require criminal background checks.
- ❑ Indicate that certificate eradicates any “lack of good moral character” finding that could be based on the fact that an applicant has previously been convicted of one or more criminal offenses.
- ❑ Require all public and private employers, as well as occupational licensing agencies, to make individualized determinations about a person’s specific qualifications, including the relevance of a criminal record.

PROCEDURE

- ❑ Clearly define who is eligible and when. For example, there may be a need to differentiate eligibility criteria based on the seriousness of an individual’s record. Some states impose eligibility waiting periods on individuals who are deemed to have “serious” criminal records. Remember to include considerations for residents who may have federal or out of state convictions in the eligibility description.
- ❑ If there are required application fees, allow for reduced or no-fee waivers for applicants who are indigent.
- ❑ Require that applicants receive all reports and decisions in writing.

- ❑ Provide for a forum to appeal the denial of a certificate, including requiring the agency issuing certificates to provide a written notice of denial to the applicant.
- ❑ Establish uniform statewide application procedures and policies.

BURDEN OF PROOF

List the evidence that is necessary for the applicant to demonstrate rehabilitation. Examples include the following:

- ❑ Gainful employment or demonstrating other evidence of means of support.
- ❑ Evidence of sobriety, if appropriate.
- ❑ Character reference letters.
- ❑ Evidence of voluntary community service.
- ❑ Attainment of vocational or educational training.

REPORTING AND TRACKING

- ❑ Mandate record keeping among the agencies granting certificates, including keeping track of the number of applications, number of denials, and number of certificates of rehabilitation issued by the relevant agency.
- ❑ Require the state's repository of records to make notations on individual criminal records when certificates are issued and which conviction(s) the certificates cover.