

D R A F T

SUMMARY

Establishes procedures for applying for Certificate of Good Standing eligibility certification and petitioning for and issuance of Certificate of Good Standing.

Creates crime if person knowingly presents revoked or invalid certificate. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Provides that in certain negligence actions valid certificate creates rebuttable presumption that employer was not negligent.

A BILL FOR AN ACT

1
2 Relating to Certificates of Good Standing.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 **(a) "Petition" means a petition for a Certificate of Good Standing.**

6 **(b) "Petitioner" means a person who files a petition for a Certificate**
7 **of Good Standing.**

8 **(2) A person who has been convicted of a felony or a Class A**
9 **misdemeanor may petition the court for a Certificate of Good Standing**
10 **as provided in this section.**

11 **(3)(a) A person may file an application for a Certificate of Good**
12 **Standing eligibility certification with a reentry court steering com-**
13 **mittee established in the person's county of residence pursuant to**
14 **section 29, chapter 649, Oregon Laws 2013.**

15 **(b) If the person's county of residence does not have a committee**
16 **described in paragraph (a) of this subsection, the person shall file the**
17 **application with the board of county commissioners.**

18 **(c) The person shall use a form of application provided by the De-**

1 **partment of Corrections.**

2 **(d) The person shall provide a copy of the application to the district**
3 **attorney of the county in which the person was convicted of the of-**
4 **fense described in subsection (2) of this section.**

5 **(4)(a) In the application, the person shall certify that the person**
6 **satisfies the requirements described in subsection (9) of this section**
7 **and is eligible for the Certificate of Good Standing. The person shall**
8 **attach to the application a written statement from the Department**
9 **of Corrections or the local supervisory authority certifying that the**
10 **applicant has successfully completed probation, post-prison super-**
11 **vision or parole.**

12 **(b) Within 45 days of receipt of the application, the reentry court**
13 **steering committee or the board of county commissioners shall issue**
14 **a written certification confirming or denying the person's eligibility**
15 **for a Certificate of Good Standing.**

16 **(5)(a) A person who has received a certification confirming eligibil-**
17 **ity as described in subsection (4) of this section may file a petition for**
18 **a Certificate of Good Standing, using a form provided by the Depart-**
19 **ment of Corrections, in the circuit court of the county in which the**
20 **petitioner resides.**

21 **(b) The petitioner shall include with the petition the certification**
22 **of eligibility described in subsection (4) of this section, a certification**
23 **that the petitioner satisfies the requirements described in subsection**
24 **(9) of this section and any other documents or written material sup-**
25 **porting the issuance of a Certificate of Good Standing.**

26 **(c) No filing fees or court fees may be required when filing a peti-**
27 **tion under this section.**

28 **(6)(a) At the time of filing, the petitioner shall provide by certified**
29 **mail a copy of the petition to the district attorney of the county in**
30 **which the person was convicted of the offense described in subsection**
31 **(2) of this section.**

1 **(b) Within 30 days of receiving a copy of the petition, the district**
2 **attorney may:**

3 **(A) File a written statement in the circuit court in the support of**
4 **the petition; or**

5 **(B) File a written objection to the issuance of a Certificate of Good**
6 **Standing only on the grounds that the petitioner does not satisfy the**
7 **requirements described in subsection (9) of this section.**

8 **(7) Upon receipt of a district attorney's objection to the issuance**
9 **of a Certificate of Good Standing, the clerk of the court shall set a**
10 **hearing on the petition with a senior judge, as that term is described**
11 **in ORS 1.300, within 30 days of the filing of the objection unless the**
12 **petitioner waives the hearing.**

13 **(8) At a hearing on the petition:**

14 **(a) The district attorney may submit documents and other written**
15 **material in support of the district attorney's objection.**

16 **(b) The district attorney shall have the burden to demonstrate that**
17 **the petitioner has not satisfied the requirements described in sub-**
18 **section (9) of this section.**

19 **(c) The court shall review only the documents or other material**
20 **submitted by the petitioner in support of the petition and any docu-**
21 **ments or other material submitted by the district attorney.**

22 **(9)(a) The court may issue a Certificate of Good Standing to the**
23 **petitioner if the court determines, by a preponderance of the evidence,**
24 **that:**

25 **(A) The petitioner meets the criminal history eligibility require-**
26 **ments described in subsection (2) of this section;**

27 **(B) The petitioner has complied with all requirements of the**
28 **petitioner's sentence, including conditions of probation and any re-**
29 **quired drug or alcohol treatment, anger management or educational**
30 **programs;**

31 **(C) At least one year has elapsed since the petitioner has completed**

1 **all requirements of the petitioner's sentence;**

2 **(D) The petitioner is not in violation of the conditions of any**
3 **criminal sentence;**

4 **(E) There are no criminal charges pending against the petitioner;**
5 **and**

6 **(F) The petitioner is engaged in, or seeking to engage in, a lawful**
7 **occupation or activity, including but not limited to employment,**
8 **training, education or rehabilitative programs, or the person has a**
9 **lawful source of support.**

10 **(b) The court may make the findings described in paragraph (a) of**
11 **this subsection without holding a hearing if the district attorney does**
12 **not file an objection to the issuance of the Certificate of Good Stand-**
13 **ing.**

14 **(10)(a) If the court issues the Certificate of Good Standing as de-**
15 **scribed in this section, the clerk of the court shall immediately provide**
16 **notice of the issuance of the certificate to the Department of State**
17 **Police and such other agencies as directed by the court.**

18 **(b) Upon receipt of notice of the issuance of the Certificate of Good**
19 **Standing, the Department of State Police shall:**

20 **(A) Enter the existence of the certificate into the Law Enforcement**
21 **Data System maintained by the Department of State Police and the**
22 **databases of the National Crime Information Center of the United**
23 **States Department of Justice; and**

24 **(B) Ensure that the results of any criminal records check performed**
25 **by the Department of State Police concerning the person who is the**
26 **subject of a Certificate of Good Standing include the existence of a**
27 **valid certificate.**

28 **(11)(a) If the court denies issuance of a Certificate of Good Stand-**
29 **ing, the court shall state the reasons for the denial on the record and**
30 **may set conditions that must be met prior to the filing of a new ap-**
31 **plication.**

1 (b) A petitioner may file a new application and petition no less than
2 12 months after the denial of a previous petition and shall, in the new
3 petition, demonstrate that the petitioner has remedied or addressed
4 the reasons for the denial of the previous petition and has met any
5 conditions set by the court.

6 (12)(a) A court that issued a Certificate of Good Standing shall re-
7 voke the certificate if the person who is the subject of the certificate
8 is subsequently convicted of a felony or is found to have made any
9 material misrepresentation in the petition. The court may hold a
10 hearing on the revocation, and the district attorney who received a
11 copy of the original petition under subsection (6) of this section may
12 appear and be heard at the revocation hearing.

13 (b) The clerk of the court shall immediately provide notice of the
14 revocation of the certificate to the Department of State Police and
15 such other agencies as directed by the court.

16 (c) Upon receipt of notice of the revocation of the Certificate of
17 Good Standing, the Department of State Police shall:

18 (A) Enter the revocation of the certificate into the Law Enforce-
19 ment Data System maintained by the Department of State Police and
20 the databases of the National Crime Information Center of the United
21 States Department of Justice; and

22 (B) Ensure that the results of any criminal records check performed
23 by the Department of State Police concerning the person who is the
24 subject of the revoked Certificate of Good Standing accurately reflect
25 the status of the certificate.

26 (d) Any person who knowingly presents, or attempts to present, a
27 revoked or otherwise invalid Certificate of Good Standing as a valid
28 certificate commits a Class A misdemeanor.

29 (13)(a) The Department of Corrections shall develop and provide to
30 the clerk of the circuit court of each county a set of model forms for
31 an application for a Certificate of Good Standing eligibility certifica-

1 **tion, a petition for a Certificate of Good Standing and a Certificate of**
2 **Good Standing.**

3 **(b) The clerk of the circuit court of each county shall have printed**
4 **a sufficient number of the forms described in paragraph (a) of this**
5 **subsection to ensure an adequate supply of forms are available to meet**
6 **the needs of the population of the county. The forms shall be provided**
7 **to all persons without charge upon request.**

8 **(14) A district attorney may not condition a plea offer on future**
9 **eligibility or ineligibility for a Certificate of Good Standing.**

10 **SECTION 2. In a claim for negligent hiring of an employee, there**
11 **shall be a rebuttable presumption that the employer was not negligent**
12 **if the employer had notice at the time of the hiring that the employee**
13 **was the subject of a valid Certificate of Good Standing as described in**
14 **section 1 of this 2015 Act.**

15
