

A-Engrossed
House Bill 3437

Ordered by the House April 23
Including House Amendments dated April 23

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

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

Creates [*crime*] **violation offense** if person knowingly presents revoked or invalid certificate. Punishes by maximum of [*one year's imprisonment, \$6,250 fine, or both*] **\$1,000 fine**.

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 of Good Standing.**

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

9 (3)(a) **A person may file an application for a Certificate of Good Standing eligibility cer-**
10 **tification with a reentry court steering committee established in the person's county of**
11 **residence pursuant to section 29, chapter 649, Oregon Laws 2013.**

12 (b) **If the person's county of residence does not have a committee described in paragraph**
13 **(a) of this subsection, the person shall file the application with the board of county com-**
14 **missioners.**

15 (c) **The person shall use a form of application provided by the Department of Corrections.**

16 (d) **The person shall provide a copy of the application to the district attorney of the**
17 **county in which the person was convicted of the offense described in subsection (2) of this**
18 **section.**

19 (4)(a) **In the application, the person shall certify that the person satisfies the require-**
20 **ments described in subsection (8) of this section and is eligible for the Certificate of Good**
21 **Standing. The person shall attach to the application a written statement from the Depart-**
22 **ment of Corrections or the local supervisory authority certifying that the applicant has**
23 **successfully completed probation, post-prison supervision or parole.**

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(5)(a) A person who has received a certification confirming eligibility as described in**
2 **subsection (4) of this section may file a petition for a Certificate of Good Standing, using a**
3 **form provided by the Department of Corrections, in the circuit court of the county in which**
4 **the petitioner resides.**

5 **(b) The petitioner shall include with the petition the certification of eligibility described**
6 **in subsection (4) of this section, a certification that the petitioner satisfies the requirements**
7 **described in subsection (8) of this section and any other documents or written material**
8 **supporting the issuance of a Certificate of Good Standing.**

9 **(c) No filing fees or court fees may be required when filing a petition under this section.**

10 **(6)(a) At the time of filing, the petitioner shall provide by certified mail a copy of the**
11 **petition to the district attorney of the county in which the person was convicted of the of-**
12 **fense described in subsection (2) of this section.**

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

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

15 **(B) File a written objection to the issuance of a Certificate of Good Standing only on the**
16 **grounds that the petitioner does not satisfy the requirements described in subsection (8) of**
17 **this section, and may support the objection by submitting documents and other written ma-**
18 **terials.**

19 **(7) When determining whether to issue a Certificate of Good Standing to the petitioner,**
20 **the court shall review only the documents or other material submitted by the petitioner in**
21 **support of the petition and any documents or other material submitted by the district at-**
22 **torney.**

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

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

27 **(B) The petitioner has complied with all requirements of the petitioner's sentence, in-**
28 **cluding conditions of probation and any required drug or alcohol treatment, batterers'**
29 **intervention, sex offender treatment, anger management or educational programs;**

30 **(C) At least one year has elapsed since the petitioner has completed all requirements of**
31 **the petitioner's sentence;**

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

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

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

37 **(b) The court may make the findings described in paragraph (a) of this subsection with-**
38 **out holding a hearing if the district attorney does not file an objection to the issuance of the**
39 **Certificate of Good Standing.**

40 **(9)(a) If the court issues the Certificate of Good Standing as described in this section, the**
41 **clerk of the court shall immediately provide notice of the issuance of the certificate to the**
42 **Department of State Police and such other agencies as directed by the court.**

43 **(b) Upon receipt of notice of the issuance of the Certificate of Good Standing, the De-**
44 **partment of State Police shall:**

45 **(A) Enter the existence of the certificate into the Law Enforcement Data System main-**

1 tained by the Department of State Police and the databases of the National Crime Informa-
2 tion Center of the United States Department of Justice; and

3 (B) Ensure that the results of any criminal records check performed by the Department
4 of State Police concerning the person who is the subject of a Certificate of Good Standing
5 include the existence of a valid certificate.

6 (10)(a) If the court denies issuance of a Certificate of Good Standing, the court shall state
7 the reasons for the denial on the record and may set conditions that must be met prior to
8 the filing of a new application.

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

13 (11)(a) A court that issued a Certificate of Good Standing shall revoke the certificate if
14 the person who is the subject of the certificate is subsequently convicted of a felony or a
15 Class A or Class B misdemeanor or is found to have made any material misrepresentation
16 in the petition. The court may hold a hearing on the revocation, and the district attorney
17 who received a copy of the original petition under subsection (6) of this section may appear
18 and be heard at the revocation hearing.

19 (b) The clerk of the court shall immediately provide notice of the revocation of the cer-
20 tificate to the Department of State Police and such other agencies as directed by the court.

21 (c) Upon receipt of notice of the revocation of the Certificate of Good Standing, the De-
22 partment of State Police shall:

23 (A) Enter the revocation of the certificate into the Law Enforcement Data System
24 maintained by the Department of State Police and the databases of the National Crime In-
25 formation Center of the United States Department of Justice; and

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

29 (d) Any person who knowingly presents, or attempts to present, a revoked or otherwise
30 invalid Certificate of Good Standing as a valid certificate commits a violation.

31 (12)(a) The Department of Corrections shall develop and provide to the clerk of the cir-
32 cuit court of each county a set of model forms for an application for a Certificate of Good
33 Standing eligibility certification, a petition for a Certificate of Good Standing and a Certif-
34 icate of Good Standing.

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

39 (13) A district attorney may not condition a plea offer on future eligibility or ineligibility
40 for a Certificate of Good Standing.

41 **SECTION 2.** In a claim for negligent hiring of an employee, there shall be a rebuttable
42 presumption that the employer was not negligent if the employer had notice at the time of
43 the hiring that the employee was the subject of a valid Certificate of Good Standing as de-
44 scribed in section 1 of this 2015 Act.