

House Bill 3437

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 **as introduced**.

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 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 (9) 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.

27 (5)(a) A person who has received a certification confirming eligibility as described in
28 subsection (4) of this section may file a petition for a Certificate of Good Standing, using a
29 form provided by the Department of Corrections, in the circuit court of the county in which

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 the petitioner resides.

2 (b) The petitioner shall include with the petition the certification of eligibility described
 3 in subsection (4) of this section, a certification that the petitioner satisfies the requirements
 4 described in subsection (9) of this section and any other documents or written material
 5 supporting the issuance of a Certificate of Good Standing.

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

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

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

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

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

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

19 (8) At a hearing on the petition:

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

22 (b) The district attorney shall have the burden to demonstrate that the petitioner has
 23 not satisfied the requirements described in subsection (9) of this section.

24 (c) The court shall review only the documents or other material submitted by the
 25 petitioner in support of the petition and any documents or other material submitted by the
 26 district attorney.

27 (9)(a) The court may issue a Certificate of Good Standing to the petitioner if the court
 28 determines, by a preponderance of the evidence, that:

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

31 (B) The petitioner has complied with all requirements of the petitioner's sentence, in-
 32 cluding conditions of probation and any required drug or alcohol treatment, anger manage-
 33 ment or educational programs;

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

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

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

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

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

44 (10)(a) If the court issues the Certificate of Good Standing as described in this section,
 45 the clerk of the court shall immediately provide notice of the issuance of the certificate to

1 the Department of State Police and such other agencies as directed by the court.

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

4 (A) Enter the existence of the certificate into the Law Enforcement Data System main-
5 tained by the Department of State Police and the databases of the National Crime Informa-
6 tion Center of the United States Department of Justice; and

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

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

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

17 (12)(a) A court that issued a Certificate of Good Standing shall revoke the certificate if
18 the person who is the subject of the certificate is subsequently convicted of a felony or is
19 found to have made any material misrepresentation in the petition. The court may hold a
20 hearing on the revocation, and the district attorney who received a copy of the original pe-
21 tition under subsection (6) of this section may appear and be heard at the revocation hearing.

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

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

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

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

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

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

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

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

44 **SECTION 2.** In a claim for negligent hiring of an employee, there shall be a rebuttable
45 presumption that the employer was not negligent if the employer had notice at the time of

1 **the hiring that the employee was the subject of a valid Certificate of Good Standing as de-**
2 **scribed in section 1 of this 2015 Act.**

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