

Enrolled
Senate Bill 690

Sponsored by Senators DEMBROW, FREDERICK, Representative PARRISH; Senator MANNING JR, Representatives KENNEMER, LININGER, OLSON

CHAPTER

AN ACT

Relating to Certificates of Good Standing.

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

SECTION 1. (1) As used in this section, unless the context requires otherwise:

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

(b) "Petitioner" means a person who files a petition.

(c) "Supervisory authority" means the state or local corrections agency supervising persons on probation, post-prison supervision or parole.

(2)(a) A person who has been convicted of a nonperson felony or a Class A misdemeanor other than a person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission, may petition the court for a Certificate of Good Standing as provided in this section.

(b) If the person was under the supervision of a supervisory authority within the three years prior to filing the petition, prior to filing the petition the person shall request from the supervisory authority a written statement verifying that the person has successfully completed probation, post-prison supervision or parole and is eligible for a Certificate of Good Standing under this section. The request for verification shall be in writing on a form provided by the Department of Corrections.

(3)(a) A person shall file a petition using a form provided by the State Court Administrator, in the circuit court of the county in which the petitioner resides. In the application, the person shall affirm that the person satisfies the requirements described in subsection (6) of this section and is eligible for the Certificate of Good Standing.

(b) If the person was under the supervision of a supervisory authority within the three years prior to filing the petition, the person shall attach to the petition the verification from the supervisory authority described in subsection (2)(b) of this section.

(c) In addition to the petition, the person may file with the court any other documents or written material supporting the issuance of a Certificate of Good Standing.

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

(4)(a) At the time of filing, the petitioner shall serve a copy of the petition on the district attorney of the county in which the person resides.

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

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

(B) File a written objection to the issuance of a Certificate of Good Standing only on the grounds that the petitioner does not satisfy the requirements described in subsection (6) of

this section, and may support the objection by submitting documents and other written materials or request a hearing on the petition.

(5)(a) When determining whether to issue a Certificate of Good Standing to the petitioner, the court shall review only the documents or other material submitted by the petitioner in support of the petition and any documents or other material submitted by the district attorney.

(b) Notwithstanding paragraph (a) of this subsection, if the district attorney files a written objection and requests a hearing, the court may consider any testimony or oral argument offered at the hearing when determining whether to issue the certificate.

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

(A) The petitioner meets the criminal history eligibility requirements described in subsection (2) of this section;

(B) At least one year has elapsed since the petitioner has completed all requirements of the petitioner's sentence, including the completion of any term of supervision;

(C) The petitioner has complied with all requirements of the petitioner's sentence, including conditions of supervision and any required drug or alcohol treatment, batterers' intervention, sex offender treatment, anger management or educational programs;

(D) The petitioner has satisfied all court-ordered financial obligations or is current on a payment plan ordered by the court or a third party as authorized by the Judicial Department;

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

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

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

(b) The court may make the determination described in paragraph (a) of this subsection without holding a hearing if the district attorney does not file an objection to the issuance of the Certificate of Good Standing and request a hearing.

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

(b) Upon receiving notice of the issuance of the Certificate of Good Standing, the Department of State Police shall:

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

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

(8)(a) If the court denies issuance of a Certificate of Good Standing, the court shall state the reasons for the denial on the record and shall include the reasons in a written order denying the petition.

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

(9)(a) A court that issued a Certificate of Good Standing shall revoke the certificate if the person who is the subject of the certificate is subsequently convicted of a felony or a Class A or Class B misdemeanor or is found to have made any material misrepresentation in the petition.

(b) A district attorney in a proceeding in which a person with a Certificate of Good Standing is convicted of a felony or a Class A or Class B misdemeanor shall notify the court where the certificate was issued of the conviction.

(c) The court may hold a hearing on the revocation, and the district attorney who received a copy of the original petition under subsection (4) of this section may appear and be heard at the revocation hearing.

(d) The clerk of the court shall immediately provide notice of the revocation of the certificate, in the form of a court order, to the Department of State Police and other agencies as directed by the court.

(e) Upon receiving notice of the revocation of the Certificate of Good Standing, the Department of State Police shall:

(A) Enter the revocation of the certificate into the Law Enforcement Data System maintained by the Department of State Police and the databases of the National Crime Information Center of the United States Department of Justice; and

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

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

(10) The clerk of the circuit court of each county shall make available the petition forms described in subsection (3)(a) of this section without charge.

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

SECTION 2. In a claim for negligent hiring of an employee, there is a rebuttable presumption that the employer was not negligent if the employer had notice at the time of the hiring that the employee was the subject of a valid Certificate of Good Standing as described in section 1 of this 2017 Act.

SECTION 3. Sections 1 and 2 of this 2017 Act are repealed on January 2, 2022.

Passed by Senate May 2, 2017

Received by Governor:

Repassed by Senate June 19, 2017

.....M.,....., 2017

Approved:

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Lori L. Brocker, Secretary of Senate

.....M.,....., 2017

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Peter Courtney, President of Senate

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Kate Brown, Governor

Passed by House June 14, 2017

Filed in Office of Secretary of State:

.....M.,....., 2017

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Tina Kotek, Speaker of House

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Dennis Richardson, Secretary of State