

Senate Bill 690

Sponsored by Senators DEMBROW, FREDERICK, Representative PARRISH

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 for petitioning for and issuing Certificate of Good Standing.

Creates violation offense if person knowingly presents revoked or invalid certificate. Punishes by maximum of \$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; creating new provisions; and amending section 29, chapter
3 649, Oregon Laws 2013.

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

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

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

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

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

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

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

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

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

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

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

28 (5)(a) A person who has received a certification confirming eligibility as described in
29 subsection (4) of this section may file a petition for a Certificate of Good Standing, using a

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 form provided by the Department of Corrections, in the circuit court of the county in which
2 the petitioner resides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (b) Upon receiving notice of the issuance of the Certificate of Good Standing, the De-
42 partment of State Police shall:

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

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

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

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

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

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

19 (c) Upon receiving notice of the revocation of the Certificate of Good Standing, the De-
20 partment of State Police shall:

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

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

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

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

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

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

39 **SECTION 2.** In a claim for negligent hiring of an employee, there shall be a rebuttable
40 presumption that the employer was not negligent if the employer had notice at the time of
41 the hiring that the employee was the subject of a valid Certificate of Good Standing as de-
42 scribed in section 1 of this 2017 Act.

43 **SECTION 3.** Section 29, chapter 649, Oregon Laws 2013, is amended to read:

44 **Sec. 29.** (1) When a circuit court in a participating county sentences a person to a term of
45 imprisonment, the court may order that the person participate in a reentry court, subject to admis-

1 sion under subsection (3) of this section, as a condition of post-prison supervision.

2 (2) At any time prior to the termination of post-prison supervision, the supervisory authority
 3 may provide a report to the reentry court recommending that a person sentenced under subsection
 4 (1) of this section be admitted into the reentry court.

5 (3) When a reentry court receives a report described in subsection (2) of this section, or an in-
 6 mate release plan prepared under ORS 144.096, that recommends the admission of a person sen-
 7 tenced under subsection (1) of this section into a reentry court, the court may enter an order
 8 admitting the person into the reentry court.

9 (4) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, when a court en-
 10 ters an order admitting a person into a reentry court, the court may:

11 (a) Issue a warrant and cause the person to be arrested for violating a condition of post-prison
 12 supervision.

13 (b) Appoint counsel to represent the person in accordance with ORS 135.050, if the person is
 14 financially eligible.

15 (c) Determine whether the conditions of post-prison supervision have been violated and impose
 16 sanctions for the violations.

17 (5)(a) When the court conducts a post-prison supervision violation hearing under this section,
 18 the person may admit or deny alleged violations of conditions of post-prison supervision. The person
 19 and the state may present evidence at the hearing.

20 (b) If the court determines by a preponderance of the evidence that a person admitted into a
 21 reentry court has violated the conditions of post-prison supervision, the court may impose sanctions
 22 for the violations that are consistent with the rules adopted under ORS 144.106 and 144.107, except
 23 that the court may not impose a sanction of imprisonment in a correctional facility that exceeds 12
 24 months.

25 (6)(a) When a court issues a warrant under this section and causes a person admitted into a
 26 reentry court to be arrested and taken into custody for violating a condition of post-prison super-
 27 vision, the person shall be brought before a magistrate during the first 36 hours in custody, ex-
 28 cluding Saturdays, Sundays and holidays. The magistrate may order the person held pending a
 29 violation hearing or transferred to the county in which the reentry court is located, or may release
 30 the person upon the condition that the person appear in court at a later date for a post-prison vio-
 31 lation hearing. If the person is held on an out-of-county warrant, the magistrate may order the per-
 32 son released subject to an additional order that the person report within seven calendar days to the
 33 reentry court.

34 (b) Except for good cause shown, if the person is held in custody and the violation hearing is
 35 not held within 14 calendar days following the person's arrest, the person shall be released from
 36 custody.

37 (7) As used in this section, "participating county" means a county:

38 (a) That has applied for and received a grant under section 53, **chapter 649, Oregon Laws 2013,**
 39 *[of this 2013 Act]* to administer a reentry court; and

40 (b) For which the presiding judge of the judicial district in which the county is located issues
 41 an order establishing a reentry *[court]* **panel** steering committee consisting of:

- 42 (A) A circuit court judge;
- 43 (B) A district attorney;
- 44 (C) A criminal defense attorney;
- 45 (D) A parole and probation officer;

- 1 (E) A representative of the business community;
- 2 (F) A representative of the education community; and
- 3 (G) Any other person the presiding judge determines is appropriate.
- 4 _____