

A publication of
THE LEGAL ACTION CENTER


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**LEGAL
ACTION
CENTER**

2007



CERTIFICATES OF RELIEF FROM DISABILITIES AND CERTIFICATES OF GOOD CONDUCT



*What You Can Do About
Criminal Convictions
When Looking for Work*



If you are an individual with a criminal record in New York who has been having trouble finding work, this pamphlet is for you.

Job discrimination is a serious problem for people with criminal records. Many employers assume that if you have ever had a problem with the law, you are forever a bad person who cannot be trusted to do a good job.

This pamphlet tells you how to get a certificate from New York State that may help you overcome the bars to employment that may exist because you have a criminal conviction.

Legal Action Center 2007

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The material contained in this pamphlet does not necessarily reflect the opinions, official policy or position of those agencies.

The Legal Action Center is a non-profit, public interest organization that works on legal issues involving criminal records, alcohol and drug dependence, and HIV/AIDS.

The Center has helped thousands of people get certificates free of charge.

Q: Why should I apply for a Certificate of Relief from Disabilities or a Certificate of Good Conduct?

A: A Certificate can really help when you are looking for work or applying for an occupational license. When you apply for a job or a license and you have a Certificate, an employer or licensing agency must consider it as evidence that you are "rehabilitated." This means that your conviction should not result in your being rejected for employment or refused a license unless there is other evidence that you are not qualified.

Having a Certificate does not, however, completely protect you from being denied a job or license because of your criminal record. A Certificate is not a pardon and it does not erase the record of your conviction. You still must list your convictions on job applications that ask for them. And an employer will still see your convictions if he or she asks for your rap sheet when you apply for a job. Finally, although an employer must take your Certificate into account in deciding whether to hire you, the law still permits an employer or licensing agency to refuse to hire or license you if your convictions are "job-related."

In addition to helping you get a job or license, a Certificate can restore some of the rights you lost as a result of your conviction. New York has a number of laws that bar persons who have been convicted of certain crimes from working in particular (civil service) jobs or getting certain licenses. The most common of these laws automatically bar people with felony convictions, but some laws also bar people with certain kinds of misdemeanor convictions.

A Certificate can usually remove what are called "statutory bars" to employment or occupational licenses. This means that, instead of automatically being disqualified for a particular job or license because of your conviction(s), you have the right to be considered for the position on an individual basis. (But for jobs that are considered to be "public offices," there is a special rule. See page 10.) A Certificate will also restore your right to serve on a jury.

Q: Is there more than one kind of Certificate?

A: New York State issues two kinds of certificates: Certificates of Relief from Disabilities and Certificates of Good Conduct.

If the answer is yes, you should apply for a Certificate of Good Conduct, even if you have only one felony, or only misdemeanor convictions. You must tell the Parole Board why you need a Certificate of Good Conduct. You must show the Parole Board that the specific job you want is a public office, and that a felony bar (or other statutory bar) applies to the position.

Q: What if I have other questions after reading this pamphlet?

A: If you have any questions, call the Legal Action Center at (212) 243-1313 on Tuesday or Friday.

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Q: What if the job I am seeking is considered a “public office”?

A: Some jobs in New York State (like police officer and firefighter) are considered "public offices." Even though a Certificate of Relief from Disabilities is ordinarily sufficient to lift a statutory bar to employment (see page 2), it cannot do this if the position is considered a public office. Only a Certificate of Good Conduct can lift a statutory bar to a job that is considered to be a "public office."

There is no complete list of all the public offices in New York State, but they include law enforcement jobs (like police or firefighters), notary public positions, and some elective offices. Often these public offices have felony bars. So you should try to find out if a particular job you want is considered a public office.

You should also find out if a felony bar (or even a bar for misdemeanor convictions) applies to the position. One way to do this is to ask the employer both questions: Is this job a public office? Is there a felony bar, or a statutory bar for certain kinds of convictions?

Q: What is the difference between a Certificate of Relief from Disabilities and a Certificate of Good Conduct?

A: The major difference between Certificates of Relief from Disabilities and Certificates of Good Conduct is who is eligible to apply for each. The application procedure for each is also different.

You should apply for one type of certificate. Under most circumstances, your criminal record will determine which one you may apply for. The two certificates generally carry the same weight in restoring the rights of individuals with criminal records and certifying that they have been rehabilitated. (The one important difference, for "public offices," is explained on page 10.)

Q: Which Certificate should I apply for?

A: You can apply for a Certificate of Relief from Disabilities if you have been convicted of no more than one felony and any number of misdemeanors. That is, you can apply for a Certificate of Relief from Disabilities if you have only one felony conviction (the number of misdemeanor convictions does not matter).

People who have only misdemeanor convictions (no felonies) should also apply for this kind of Certificate.

In counting your felony convictions, you must include all your convictions for a felony, even if they were for federal or out-of-state charges. You do not count the cases for which you were tried as a juvenile delinquent or youthful offender.

You must apply for and get a separate Certificate of Relief from Disabilities for each conviction. You can get Certificates of Relief from Disabilities for all your convictions, even for those that were federal or occurred outside New York, provided **you are a New York resident**. You can get a temporary Certificate of Relief from Disabilities even while you are on probation or parole.

You can apply for a Certificate of Good Conduct if you were convicted of two or more felonies and any number of misdemeanors. You only need to apply for one Certificate of Good Conduct, which will cover all your felony and misdemeanor convictions. However, there is a waiting period and your application for a Certificate of Good Conduct will be considered only if a sufficient period of time has passed since your last conviction.

If you have worked in the last three years, you will have to provide proof that you have paid income taxes.

The Certificate Review Unit will look over your application to make sure that you are eligible to apply for a Certificate of Good Conduct and then will assign your application to a parole officer in the county where you live. The parole officer will conduct an investigation into your rehabilitation. He or she will want to meet with you in your home.

After the investigation, the parole officer will send a report to the Parole Board and will recommend whether or not you should be granted a Certificate. The Board will consider the report at one of its monthly meetings and will send you notification of its decision by mail.

Warning: It takes at least one year to eighteen months to obtain a Certificate of Good Conduct. If you need your Certificate in a hurry, you should explain why in a letter when you send the Certificate Review Unit your completed application form. When a job or occupational license is at stake, they make every effort to speed up the application process.

The Board will make the final decision about your Certificate application and will notify you by mail. The entire process can take one year. Remember, you must get a separate Certificate of Relief from Disabilities for each misdemeanor or felony conviction. If your conviction record is long, you should at least try to get Certificates for your most recent and most serious convictions.

Q: How do I apply for a Certificate of Good Conduct?

A: Once the required waiting period of either three or five years has passed, request or download the application from:

Certificate Review Unit
New York State Division of Parole
97 Central Avenue
Albany, NY 12206
(518) 485-8953
www.parole.state.ny.us

It is about six pages long. Complete the form to the best of your ability, taking special care to list all the prisons and jails in which you have been incarcerated. You must have the form notarized before returning it to the Certificate Review Unit in Albany.

If the most serious conviction in your criminal history was for a "C," "D," or "E" felony, you must wait at least **three** years from the date of your last conviction, payment of fine, or release from prison on to parole supervision.

If your most serious conviction was for an "A" or "B" felony, you will have to wait at least **five** years from your last conviction, payment of fine, or release from prison on to parole supervision.

Therefore, if you have **two** or more felony convictions and you are now serving time, you will not be able to apply for the Certificate of Good Conduct until at least **three** years after your release from prison on to parole. This waiting period is mandatory; no exceptions are made.

Q: How do I apply for a Certificate of Relief from Disabilities?

A: The procedure you must follow to apply for a Certificate of Relief depends upon where you were sentenced and what kind of sentence you received. See next page for important differences in applying.

If you were convicted of a misdemeanor or if you were convicted of a felony but served no time in state prison: You must apply for your Certificate(s) of Relief to the court in which you were convicted. The court can issue the Certificate any time after you are sentenced.

How to apply to a court for a Certificate of Relief from Disabilities: Every court sets up its own procedure for processing Certificate of Relief applications, so you should contact the clerk of the court to learn what steps are required. You might have to meet with a probation officer who will evaluate your rehabilitation. The probation officer will prepare a report with a recommendation as to whether you should get a Certificate of Relief. Under a 2006 law, the court should give you a copy of that report.

If you were convicted of a felony and served time in a state prison: You must apply to the New York State Board of Parole for a Certificate of Relief for that case. (If you are on parole, you should make the request for the Certificate to your parole officer.)

You cannot apply if you are still incarcerated, but the Board of Parole will automatically consider giving you a Certificate when it considers you for early release. The Certificate will be mailed to your parole officer 90 days after your release, if your parole has not been revoked.

If you were convicted of a federal or out-of-state misdemeanor or felony: You also apply to the New York State Board of Parole to get a Certificate of Relief for that conviction.

How to apply to the Board of Parole for a Certificate of Relief from Disabilities: To apply to the Board of Parole, request or download the application (or applications, if you need more than one) from:

Certificate Review Unit
New York State Division of Parole
97 Central Avenue
Albany, NY 12206
(518) 485-8953
www.pardone.state.ny.us

Complete the form or forms, have it (or them) notarized, and then return it (them) to the Certificate Review Unit. If you have worked in the last three years, you will have to provide proof that you have paid income taxes. The Certificate Review Unit will then assign your application to a local parole officer, who will conduct an investigation of your character and rehabilitation. After the investigation, the parole officer will send an evaluation to the Parole Board.