



Bill No.: A07597

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A07597 Summary:

BILL NO A07597A

SAME AS Same as S 5757

SPONSOR Aubry

COSPNSR Colton, Abinanti

MLTSPNSR Boyland, Rivera P

Amd S702, Cor L

Provides that where the court imposes a revocable sentence of imprisonment or imposes a sentence other than one executed by commitment to an institution under jurisdiction of the state department of corrections and community supervision the court shall initially determine the fitness of an eligible offender for a certificate of relief from disability.

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BILL NUMBER:A7597A

TITLE OF BILL: An act to amend the correction law, in relation to the issuance of certificates of relief from disabilities

SUMMARY OF PROVISIONS: Section 1 of the bill would amend subdivision 1 of section 702 of the Correction Law, requiring the court to make a determination, upon application, as to the fitness of an eligible offender for the issuance of a Certificate of Relief from Disabilities ("Certificate" or "Certificate of Relief"), This initial determination would occur prior to or at the time of sentencing, when the sentence imposed is either revocable or a sentence other than commitment to an institution under the jurisdiction of the State Department of Corrections and Community Supervision.

Section 2 of the bill provides that this amendment would take effect immediately.

REASONS FOR SUPPORT: Certificates of Relief from Disabilities are a powerful tool created by the Legislature to promote and encourage successful reintegration after a conviction, Issued at sentencing, a Certificate can prevent eviction, loss of a job and loss of an occupational license. It can lay the groundwork for re-entry into society, allowing individuals to obtain, for example, licenses essential to employment, which can empower them to make child support payments and break the cycle of poverty,

Despite their utility, Certificates are vastly underutilized: only a tiny fraction of the tens of thousands of people who are eligible actually hold them. Applications for Certificates are usually not even addressed at the time of sentencing. By facilitating access to Certificates where appropriate, but retaining the court's discretion to withhold issuance should it identify a public safety or other concern, these amendments could result in thousands of New Yorkers overcoming the collateral consequences of convictions and lead successful, law-abiding lives.

The law currently provides that a Certificate of Relief may be issued at sentencing, so that an individual may obtain a Certificate from the court expeditiously following conviction of a crime. When it was enacted in 1966, Governor Rockefeller recognized that offenders needed the assistance and protection of Certificates of Relief to aid in their rehabilitation. The Governor's Memorandum noted that "[t]his bill will reduce the automatic rejection and community isolation that

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often accompany conviction of crimes, and will thus contribute to the complete rehabilitation of first offenders and their successful return to responsible lives in the community." {1} Additionally, Thomas McCoy, State Administrator to the Judicial Conference of the State of New York, in supporting the 1966 bill, stated "The need for this legislation is clear. The disabilities which result from a criminal record are among the chief sources of recidivism. In turn, recidivism is a primary cause of the intolerably high crime rate... This bill is a step in the direction of rehabilitating first offenders."

As such, the Legislature intended for a Certificate of Relief to be granted soon after a conviction in order to assist with the rehabilitation of first-time felons and misdemeanants. Recognizing

that Certificates may be granted prior to one's demonstration of proper conduct, the law permits revocation of these certificates if necessary, while an offender is under probation supervision.

In 2006, Penal Law S1.05(6) was amended to add "the promotion of [the convicted person's] successful and productive reentry and reintegration into society..." to the traditional sentencing goals of deterrence, incapacitation, retribution, and rehabilitation. By amending the sentencing model to include successful reintegration, policymakers acknowledged that promoting re-entry is not only crucial for individuals with conviction histories and their families, but for public safety as a whole. The proposed amendment improving access to Certificates would make the Correction Law more consistent with the above-referenced Penal Law provision. It would also be consistent with the public policy of New York State "to encourage the licensure and employment of persons previously convicted of one or more criminal offenses" (Correction Law S 753(1)(a)).

The suggested change would promote successful reentry, rehabilitation, and public safety throughout New York State, as originally intended by the Legislature. Under the proposed amendment, judges and probation officers would retain the same level of discretion they currently hold to deny or recommend against the issuance of Certificates. However, by requiring courts to make determinations regarding an applicant's fitness for a Certificate, New Yorkers with conviction histories would benefit from the chance to unlock the door to opportunity and self-sufficiency.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

FOOTNOTE

{1} Governor's Memorandum of Approval of L. 1966, N.Y. Legis. Annual, 1966, Chapter 654

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A07597 Text:

S T A T E O F N E W Y O R K

7597--A

Cal. No. 423

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. AUBRY, COLTON -- read once and referred to the Committee on Correction -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the correction law, in relation to the issuance of certificates of relief from disabilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 1 of section 702 of the correction law, as
- 2 amended by section 32 of subpart B of part C of chapter 62 of the laws
- 3 of 2011, is amended to read as follows:

- 4 1. Any court of this state may, in its discretion, issue a certificate

5 of relief from disabilities to an eligible offender for a conviction
6 that occurred in such court, if the court either (a) imposed a revocable
7 sentence or (b) imposed a sentence other than one executed by commitment
8 to an institution under the jurisdiction of the state department of
9 corrections and community supervision. Such certificate may be issued
10 (i) at the time sentence is pronounced, in which case it may grant
11 relief from forfeitures, as well as from disabilities, or (ii) at any
12 time thereafter, in which case it shall apply only to disabilities.
13 WHERE SUCH COURT EITHER IMPOSES A REVOCABLE SENTENCE OR IMPOSES A
14 SENTENCE OTHER THAN ONE EXECUTED BY COMMITMENT TO AN INSTITUTION UNDER
15 THE JURISDICTION OF THE STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY
16 SUPERVISION, THE COURT, UPON APPLICATION AND IN ACCORDANCE WITH SUBDIVI-
17 SION TWO OF THIS SECTION, SHALL INITIALLY DETERMINE THE FITNESS OF AN
18 ELIGIBLE OFFENDER FOR SUCH CERTIFICATE PRIOR TO OR AT THE TIME SENTENCE
19 IS PRONOUNCED.
20 S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD11554-03-1

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