

HOUSE RESEARCH

Bill Summary

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Overview

This bill establishes procedures for reformed offenders to secure certificates of good conduct from a court of law. The certificates are intended to provide recipients with a judicial stamp of approval of their reformation into law-abiding citizens.

Section

- 1 **Evidence of rehabilitation.** Identifies certificates of good conduct as sufficient evidence of rehabilitation under Minnesota statutes, chapter 364 (Criminal Offenders, Rehabilitation) for the purpose of public employment or occupational licensure.
- 2 **Exceptions.** Amends the provision in chapter 364 that exempts certain occupations (*e.g.*, peace officers, firefighters, teachers, doctors, school bus drivers, Department of Human Services licensees, etc.) from the chapter's provisions. Certificates of good conduct would apply to these occupations.
- 3 **Certificate of good conduct.** Establishes a certificate of good conduct.

Subd. 1. Definitions. Defines "petitioner" and "prosecuting attorney."

Subd. 2. Petition; filing fee. Authorizes persons convicted of or adjudicated delinquent by a Minnesota court for a crime committed within the state to petition a court for a certificate of good conduct. Requires payment of the standard civil filing fee. Provides that a person is not eligible for a certificate if the person has filed a petition for a certificate or for an expungement in the past two years.

Section

Subd. 3. Contents of petition. Sets forth the required contents of a petition. The petition must contain:

- the petitioner's name and aliases;
- the petitioner's date of birth;
- all of the petitioner's addresses;
- reasons for seeking the certificate and why it should be granted;
- details of the offense(s);
- how the petitioner has reformed;
- the petitioner's criminal record;
- the petitioner's criminal charge record;
- all prior requests for this or other similar forms of relief; and
- any other information sought on the certificate form.

Requires the petitioner to submit any current orders for protection, restraining orders or no contact orders. Requires the court, through the Bureau of Criminal Apprehension (BCA), to conduct a criminal history background check on the applicant. To facilitate this, the petitioner must submit an executed criminal history consent form, including fingerprints, and payment for the background check.

Subd. 4. Service of petition and proposed order. Requires the petitioner to serve the petition on the prosecuting authority for the district where the offense occurred. The prosecuting authority shall make reasonable and good-faith efforts to contact victims if the victims have requested notice.

Subd. 5. Hearing. Establishes procedures and standards for petition hearings. Requires a hearing on the petition and authorizes the prosecuting attorney to be a party to it and represent the state's interests. Requires the court to receive testimony or evidence from either party to the petition. Provides the victim the right to submit a statement and requires the court to consider the entire record, including the victim's statement when making a decision.

Subd. 6. Eligibility. Establishes eligibility requirements. To be eligible, the person:

- must have been successfully discharged from the sentence imposed and not be under correctional supervision for any offense;
- must not currently be required to register as a predatory offender and not have been required to register for at least the past five years (if applicable);
- must have been law abiding for five years if the person had been convicted of a violent crime or was required to register as a predatory offender, and three years for all other offenders (these waiting periods do not include any time that the petitioner is under correctional supervision);
- must not currently be charged with a criminal offense;
- must not have ever been convicted of a sex offense;
- must demonstrate rehabilitation;
- must have paid or been making progress toward paying court-ordered fines and

Section

restitution;

- must not be abusing alcohol or controlled substances (applicable to certain offenses); and
- must show that the issuance of the certificate is consistent with the public interest.

In addition, the court may consider any other factors it deems relevant.

Subd. 7. Issuance of certificate. Requires the petitioner to establish eligibility by a preponderance of evidence.

Subd. 8. Record with Bureau of Criminal Apprehension. Requires the court to notify the BCA of certificate of good conduct petition rulings and the BCA to record the ruling on the petitioner's criminal record.

Subd. 9. Effects of certificate. Provides that a certificate creates a presumption of rehabilitation in favor of the recipient and relieves the person of any state-imposed collateral sanctions relating to eligibility for housing, employment, or professional or occupational licensing arising from the crime for which the certificate was issued. Prohibits the Commissioner of Human Services when conducting a background study under chapter 245C from disqualifying an individual solely for a crime for which an individual has received a certificate of good conduct.

Provides that a disqualified person must request a set aside.

The commissioner may deny the request only if other factors exist that indicates that the person poses a risk of harm. Provides that no cause of action exists against a housing or licensing authority or employer based on consideration of or failure to consider a certificate when making a decision. Provides that evidence relating to convictions for which certificates have been issued is inadmissible in civil actions against these individuals for negligence in making a housing, licensing, or employment decision if the person relied on the certificate when making the decision. Further provides that existence of a certificate is admissible as evidence of reasonable care by these individuals when making decisions related to the subject of the certificate.

Subd.10. Revocation. Provides that a certificate is revoked by operation of law if the holder is subsequently convicted of a crime. Also allows a court to revoke a certificate under certain circumstances.

Subd. 11. Limited effect. Reiterates the limited scope of the certificate.

Subd. 12. Crime of misuse. Makes it a gross misdemeanor to use a revoked certificate or to forge/alter a certificate.

- 4** **Petition; filing fee.** Amends the expungement law to prohibit a person from filing for an expungement if the person has previously filed a petition for expungement or a certificate of good conduct in the past two years.

Section

- 5** **Contents of petition.** Amends the expungement law to require that a person seeking an expungement disclose prior requests for certificates of good conduct.
- 6** **Notice of expungement or certificate of good conduct.** Requires that notice be provided to victims when an offender seeks a certificate of good conduct.
- 7** **Appropriation.** Appropriates unspecified sums to the district courts and the Commissioner of Public Safety to implement the certificate of good conduct law.