

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Mar 28, 2017
S.B. 455
PRINCIPAL CLERK

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SENATE BILL DRS15099-LH-89A (03/03)

Short Title: Amend Certificate of Relief. (Public)

Sponsors: Senators McKissick, Britt, and Daniel (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE AVAILABILITY OF CERTIFICATES OF RELIEF TO
3 CERTAIN OFFENDERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 15A-173.2 reads as rewritten:

6 "§ 15A-173.2. Certificate of Relief.

7 (a) An individual who is convicted of ~~no more than two Class G, H, or I felonies or~~
8 ~~misdemeanors in one session of court, and who has no other convictions for a felony or~~
9 ~~misdemeanor other than a traffic violation, criminal offenses no higher than a Class G felony~~
10 may petition the court where the individual was convicted of the most serious offense for a
11 Certificate of Relief relieving collateral consequences as permitted by this Article. If the
12 individual has more than one conviction in the same class of offense as the most serious offense
13 and the convictions are in more than one court, the individual shall petition the court of the
14 most recent conviction. Except as otherwise provided in this subsection, the petition shall be
15 heard by the senior resident superior court judge if the convictions were in superior court, or
16 the chief district court judge if the convictions were in district court. The senior resident
17 superior court judge and chief district court judge in each district may delegate their authority
18 to hold hearings and issue, modify, or revoke Certificates of Relief to judges, clerks, or
19 magistrates in that district.

20 (b) Except as otherwise provided in G.S. 15A-173.3, the court may issue a Certificate
21 of Relief if, after reviewing the petition, the individual's criminal history, any information
22 provided by a victim under G.S. 15A-173.6 or the district attorney, and any other relevant
23 evidence, it finds the individual has established by a preponderance of the evidence all of the
24 following:

25 (1) ~~Twelve~~ If the individual has been convicted of five or fewer eligible
26 offenses, 12 months have passed since the individual has completed his or
27 her sentence. If the individual has been convicted of more than five eligible
28 offenses, 36 months have passed since the individual has completed his or
29 her sentence. For purposes of this subdivision, an individual has not
30 completed his or her sentence until the individual has served all of the active
31 time, if any, imposed for each offense and has also completed any period of
32 probation, post-release supervision, and parole related to the offense that is
33 required by State law or court order.

34 (2) The individual is engaged in, or seeking to engage in, a lawful occupation or
35 activity, including employment, training, education, or rehabilitative
36 programs, or the individual otherwise has a lawful source of support.



- 1 (3) The individual has complied with all requirements of the individual's
2 sentence, including any terms of probation, that may include substance abuse
3 treatment, anger management, and educational requirements.
4 (4) The individual is not in violation of the terms of any criminal sentence, or
5 that any failure to comply is justified, excused, involuntary, or insubstantial.
6 (5) A criminal charge is not pending against the individual.
7 (6) Granting the petition would not pose an unreasonable risk to the safety or
8 welfare of the public or any individual.

9 (c) The Certificate of Relief shall specify any restriction imposed and collateral
10 sanction or disqualification from which relief has not been granted under G.S. 15A-173.4(a).

11 (d) A Certificate of Relief relieves all collateral sanctions, except those listed in
12 G.S. 15A-173.3, those sanctions imposed by the North Carolina Constitution or federal law,
13 and any others specifically excluded in the certificate. A Certificate of Relief does not
14 automatically relieve a disqualification; however, an administrative agency, governmental
15 official, or court in a civil proceeding may consider a Certificate of Relief favorably in
16 determining whether a conviction should result in disqualification.

17 (e) A Certificate of Relief issued under this Article does not result in the expunction of
18 any criminal history record information, nor does it constitute a pardon.

19 (f) A Certificate of Relief may be revoked pursuant to G.S. 15A-173.4(b) if the
20 individual is subsequently convicted of a felony or misdemeanor other than a traffic violation
21 or is found to have made any material misrepresentation in his or her petition.

22 (g) The denial of a petition for a Certificate of Relief shall state the reasons for the
23 denial, and the petitioner may file a subsequent petition 12 months from the denial and shall
24 demonstrate that the petitioner has remedied the defects in the previous petition and has
25 complied with any conditions for reapplication set by the court pursuant to G.S. 15A-173.4(a)
26 in order to have the petition granted.

27 (h) A person who files a petition for a certificate of relief under this section shall pay a
28 fee of fifty dollars (\$50.00) to the clerk of superior court at the time the petition is filed. Fees
29 collected under this subsection shall be deposited in the General Fund. This subsection shall not
30 apply to a petition filed by an indigent."

31 **SECTION 2.** This act becomes effective October 1, 2017, and applies to petitions
32 for certificates of relief filed on or after that date.