

Legislative History for Connecticut Act

PA 14-27

SB153

House	4462-4512	51
Senate	1166-1202	37
Judiciary	1309, 1316-1317, 1484- <u>1490</u>	10
		98

H – 1194

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
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The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will members please return to the chamber post haste.

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? If all the members have voted, please check the board to make sure your vote is properly cast.

And if all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

House Bill 5588 as amended by House "A".

Total number voting	142
Necessary for passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not voting	9

SPEAKER SHARKEY:

The bill as amended passes.

Will the Clerk please call Calendar 451.

THE CLERK:

House Calendar 451 located on page 27, favorable report of the joint standing committee on General Law, Substitute Senate Bill 153, AN ACT CONCERNING THE

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RECOMMENDATIONS OF THE CONNECTICUT SENTENCING
COMMISSION WITH RESPECT TO CERTIFICATES OF
REHABILITATION.

SPEAKER SHARKEY:

The distinguished chairman of the Judiciary
Committee, Representative Gerry Fox. You have the
floor, sir.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the
acceptance of the joint committee's favorable report
and passage of the bill in concurrence with the
Senate.

SPEAKER SHARKEY:

The question is on acceptance of the joint
committee's favorable report and passage of the bill
in concurrence with the Senate.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker. This bill is a product
of the Sentencing Commission as the title would
indicate. What it does is, it allows the Board of
Pardon and Parole or the Court Support Services
Division to issue certificates of rehabilitation,

which would allow individuals, or would assist individuals in obtaining employment or licenses.

It is a bill that passed overwhelmingly in the Judiciary Committee. I think it was unanimous in General Law as well as unanimously through the Senate and I would urge passage of the bill.

SPEAKER SHARKEY:

Thank you, sir. The question before the Chamber is acceptance of S.B. 153.

Will you remark further on the bill that's before us? The distinguished ranking member of the Judiciary Committee, Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, just a few questions for clarification on the bill that's before us.

SPEAKER SHARKEY:

Please proceed.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. Through you, Mr. Speaker, if Representative Fox could just articulate for us the difference that this bill establishes the certificates of rehabilitation versus the provisional pardons that now exist in law.

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Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, a provisional pardon would be something that individuals could obtain through the Board of Pardon and Parole. It would be something, while they are similar, this is the certificate of rehabilitation is something they could also obtain through the Court Support Services Division. It would be anticipated that this could be something that may be done more quickly and hopefully be able to benefit those who would be able to use this if they're seeking employment and if they are eligible.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, who has the ability to issue these certificates of rehabilitation?

Through you, Mr. Speaker.

(Speaker Sharkey is in the Chair.)

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SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, it would be issued either through the Board of Pardon and Parole or through the Court Support Services Division, which is the Probation Department.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, I noticed in line 63 through 65 it has a definition of employment and I want to know that it certainly does exclude any employment with law enforcement agency. I see in the definition it does not include internships and I believe again, for just legislative intent that the definition of employment would be narrowly tailored to the definition that appears in this bill. Is that correct?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

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Through you, Mr. Speaker, yes, that is correct.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, I believe there's a component to this bill that has to do with data collection.

Through you, Mr. Speaker, if the Representative could highlight exactly what that will entail.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the Sentencing Commission will continue to evaluate the effectiveness of this provisional pardon and certificates of rehabilitation and they will collect data that will assist them as they continue to evaluate the use of these procedures.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, there's also the probability or possibility

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under this legislation to get a temporary certificate of rehabilitation. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't think that it does include a temporary certificate of rehabilitation. I don't see that here.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, just to I guess clarify my question because I believe I wasn't clear enough.

In lines 124 through 138 is there a provision there regarding the ability to apply for some type of temporary certificate prior to the individual potentially being released from prison?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

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And through you, Mr. Speaker, actually I do stand corrected. I do see that section now and yes, there is that possibility.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, in lines 116 through 123 it does indicate that there's going to be an investigation that's conducted before the issuing of a certificate of rehabilitation.

If during that investigation something is found that an illegal act or information that was not previously known, is that information that then could be acted upon by law enforcement?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the background investigation that is done is something that is done, the written report that is submitted to the board is something that is confidential, except it is submitted

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to the applicant where required, so it would be something between the board and the applicant.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, I believe in lines 150 through 156 it indicates the possibility of the action of revocation of a certificate of rehabilitation once it's issued.

Through you, Mr. Speaker, if Representative Fox could highlight what the process is for that revocation? Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. Yes, the certificate of rehabilitation can be revoked, or the temporary certificate can be revoked and the certificate would have to be returned to the issuing board or division upon receipt of the revocation notice.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

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Thank you, Mr. Speaker. And through you, Mr. Speaker, lines 151 through 167 it indicates a provision of again, regarding the data collection.

Through you, Mr. Speaker, if Representative could highlight the purpose of the data that's going to be collected. Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. What would happen is the data will be collected. It will be submitted to OPM. They would be looking at the number of applications received, the number of applications denied, the number of applications granted as well as the number that were revoked, so it would be for the purposes of evaluating the program and would enable the Sentencing Commission to establish further policy going forward.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, just for clarification purposes, if an employee were to apply at an employer for a position

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and there were other reasons not solely for the reason that the person's prior conviction related to the responsibilities of the position that the person is applying for, other than that sole reason.

If there's other reasons that the employer determines that this employee or applicant, I'm sorry, this applicant would not be fit for the position, would the employer be able to deny the applicant to the position, even though he shows up with a certificate of rehabilitation?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker, and through you, yes. The employer could deny the application of the prospective employee.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, under the law that's before us or what will become law if it's voted out, is there any type of responsibility on the employer to have to either

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articulate orally or in writing, the reason or purpose for the applicant not being hired by that employer?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, they would, I believe they would undergo the normal hiring process so they would be able to state the reason or not, if they chose not to hire this individual.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and I'd like to thank Representative Fox for articulating that. I think that's an important point for legislative intent and certainly an important point for us to highlight this as we do discuss the bill that's before us here.

And is the employer, employee, I mean, excuse me, if the applicant was not satisfied that he or she was denied a position and believe that it may have been solely as a result of the certificate of rehabilitation that the employer used against them, does the employer have a rebuttable presumption under

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the legislation that's before us, and then if Representative Fox could just articulate a little bit of what that standard is, and I believe that may be in Section, lines 255 through 260.

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, there would be a rebuttable presumption, which would mean the employer would be presumed to have acted properly and it would be the employee's responsibility to rebut that presumption.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. And through you, Mr. Speaker, what would be the standard that would have to be met? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I believe it's preponderance of the evidence, but, I believe that's

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the standard. I can't find it specifically at this moment.

SPEAKER SHARKEY:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker, and I want to thank the chairman of the Judiciary Committee and in fact, I would reaffirm that that is the standard.

And I'd like to thank the Representative for all of his responses regarding the piece of legislation, although certainly it passed unanimously in the Senate, there was a few members on the Judiciary Committee that had some concerns regarding it.

Hopefully the dialogue has either reaffirmed their concerns or maybe addressed some of their concerns.

So again, Mr. Speaker, thank you very much.

SPEAKER SHARKEY:

Thank you, madam.

Would you care to remark? Would you care to remark further on the bill before us?

Representative Sawyer.

REP. SAWYER (55th):

Good evening, Mr. Speaker, thank you.

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SPEAKER SHARKEY:

Good evening, madam.

REP. SAWYER (55th):

A couple questions through you to the distinguished chairman of the Judiciary Committee.

SPEAKER SHARKEY:

Please proceed, madam.

REP. SAWYER (55th):

You referenced the data collection recently in some of the earlier questioning. My question for you, sir. Are the names going to be redacted in that data collection? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't know how OPM would normally gather this type of data. I know that, I'm not sure that the names of the individuals is what they're seeking so much as the number of applicants, number of applicants granted, number of applicants denied and also those that are revoked.

So I would assume that they would have access to the names. I don't know if they would be redacted or not.

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SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. And would this also be applicable to the Juvenile Court?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't see anything that would preclude the Juvenile Court. However, I think it would be unusual for the Juvenile Court to do this. It would be mostly, I think, done through adult court.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. In looking at the analysis, the bill analysis it says in Number 5, it says that currently, reports related to the provisional pardons are confidential unless disclosure is required or permitted by statute.

Is there a change in this bill for that confidentiality or will it remain consistent?

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Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, with respect to the provisional pardon section, that is consistent, I believe, with how they currently do it.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

So if I understand what you said, through you, Mr. Speaker, that nothing changes in this particular case, through you, Mr. Speaker. So the confidentiality will remain?

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, that is my understanding.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you. And through you, Mr. Speaker, a couple of questions about the form that's being

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created. Who will be creating this form and where will copies go once this new system is put into place?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I would anticipate a form would be available through the Board of Pardon and Parole as well as through the Court Support Services Division because those would be the two entities that would be able to administer the certificates of rehabilitation.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker, and through you, who will be developing these forms? Is it going to be a large group that will put this together so that it will meet as many needs as possible? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I would presume the entities who are administering the forms would be the ones who would create it.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. One last question. After these forms are put into place and are being used, will they be FOI-able?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't see anything that precludes them from being FOI-able, so I assume that they would be, but I'm not certain.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker, and I thank the chairman for his attempt at the answer and I hope we'll find the answer out later. Thank you, sir.

SPEAKER SHARKEY:

Thank you, madam.

Would you care to remark? Would you care to remark further on the bill before us?

Representative Aman.

REP. AMAN (14th):

Thank you, Mr. Speaker. As a non-attorney who does not have any experience in this area, I'm probably going to be asking a series of questions that the good chairman is going to say gee, you should actually know what this is and what it's about, but for many of us who are not involved, hopefully my questions will give us a basis of understanding of what it is.

And probably start off with a very simple thing about what is a certificate of rehabilitation?

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker, and through you that's actually a very good question. What a certificate of rehabilitation is, it's something that an individual who has a criminal record would be able to obtain and utilize that to show that they have made significant strides toward rehabilitation and that they are

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somebody who could be worthy of employment or perhaps
obtaining a license in some way.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

Yes. What type, through you, Mr. Speaker, what
types of crimes does the chairman anticipate people
will have committed that will be applying for these
certificates and be successful in receiving them?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, somebody may have
committed a crime that, it could be, I mean a breach
of peace, but I'm not saying that that's the only
crime. It could be perhaps an assault when they were
younger. I could name, go through a series of crimes,
perhaps a drunk driving conviction that might be
holding somebody back and it would be that type of
crime as well as perhaps others.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

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Yes, through, again through you, Mr. Speaker.
From what you said, most of those I would put in the classification as more minor types of crimes or non-violent crimes. Is that a fair interpretation of the chairman's version of who would, or the type of crimes that are anticipated to be, receive this type of certificate?

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. Through you, I did also say assault, so that would be more of a, that can be deemed to be a violent crime.

It would have to be somebody who would show that they have rehabilitated themselves sufficiently so that the authorizing agency, whether it be the Board of Pardon and Parole, or the Court Support Services Division would feel that that individual is worthy of a certificate of rehabilitation.

And one of the things that I didn't say earlier and I should have said, I'm veering off the question a little but, is that we have heard over and over again that the greatest hurdle to individuals when they either leave incarceration or if they've been having

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trouble with the law is that they can't get a job and it would be the hope that this would be able to enable people to get a job and support themselves so that they can live a life that does not involve crime.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

On that, how, can you give me some practical ways an individual will be able to demonstrate that they have reformed and should receive this type of certificate. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. Through you, so for example if an individual is on probation and they are reporting to their probation officer through the Court Support Services Division, if the individual has for a period of time met the conditions of their probation, perhaps had been drug free, which is always a big thing with respect to probation, also made the appointments with their probation officers, perhaps, you know, not gotten themselves into trouble during the course of their period of probation and shown

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themselves to be somebody that what they really need
is a job.

And if the probation officer and Court Support
Services Division felt that this was an individual
that was not a risk to anybody, they could then
process a certificate of rehabilitation.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

Yes, continuing on that line of questioning, it
appears from the answer that it's very flexible as far
as the time. It's really up to the probation officer
to decide that the person would be helped by this and
should be eligible.

Is there a time guidelines for this, or again, is
there a lot of flexibility brought into the standards?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I mean, there are
certain steps, however, that would need to be
required. For example, and also a certificate of
rehabilitation, and I should have said this earlier as

well, it does not erase a person's record, so the employer, prospective employer, would still know that there's a record out there if they did that type of background check.

Also, the clerk of the court where a person was initially convicted needs to be notified if a certificate is being issued, and that's, I mean those are a few of the reasons there, some of the conditions that would have to be met.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

Yes. I've heard the terms and seen them in this bill and others. They talk about a pardon, a provisional pardon and also a permanent provisional pardon. Could the Chairman explain in layman's terms what the difference of those three might be?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. Well, a pardon I think we're familiar with and that a pardon is when the Board of Pardon and Parole grants after a hearing and

notice to the victim, grants the applicant's request for a pardon, meaning that their record is eliminated and they can then at that point say that they have not even been arrested or convicted of a crime.

A provisional pardon is one that would be issued by the Board of Pardon and Parole for a more limited purpose, such as employment, which is similar to what we're talking about with a certificate of rehabilitation.

And the permanent provisional pardon would be something that would just, it would last longer than the provisional pardon. So the provisional pardon would be one that might be used for a more interim purpose and the permanent provisional pardon would be for longer.

A certificate of rehabilitation is very similar to a provisional pardon, but it is one that it would be, the hope that you would be getting, a prospective employer would be getting a direct report from the Office of Probation that would, direct report is not the correct word, but an affirmation that this individual, this applicant, has been doing the things that they have been asked to do by the court and by

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the Judicial system and they are somebody who is worthy of prospective employment.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

And the term was used for permanent certificate of rehabilitation. How is a permanent certificate different from just a normal certificate? I believe that was the term I saw somewhere in here.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I'm sorry. If the good Representative could just say that one more time a little louder.

REP. AMAN (14th):

Yes, I believe somewhere in here, most of the time they talk about just a certificate of rehabilitation and I believe somewhere I saw the term permanent certificate of rehabilitation and is there a separate classification for that, or is it something I was misreading it within the bill?

SPEAKER SHARKEY:

Representative Fox.

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REP. FOX (146th):

Thank you, Mr. Speaker. What the temporary certificate, can be issued by either the Board of Pardon and Parole or the Court Support Services Division and the court can revoke that if the individual violates the conditions of probation or parole.

And that is how it's being utilized here.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

Yes. Going on just so I know where I'm talking about, looking at the Section j, roughly lines 150 through 156 they talk about a certificate was issued and then it can be revoked and it has to be returned.

As a practical matter, if someone has done something that would cause a certificate to be revoked, how do they expect to get it back from the individual? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. Well, if the individual does not, if they do something that

requires the certificate to be revoked, then they would, the certificate would no longer be valid and it would no longer be of effect for them for the purpose the individual was to use it for and they would be ordered to surrender that certificate, the temporary certificate, to the issuing board or the CSSD upon receipt of notice.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

I think that's going to be very difficult to get someone who is now probably in jail for another crime to cooperate, but maybe it will.

The final question I have is, I think this is probably a good stage for, to try to get people back to work and I'm wondering within the bill, is there anything that's going to report out to the General Assembly or to the Judiciary on the success or failure of these certificates as far as people being rehabilitated or receiving employment or any other sort of report coming back to the General Assembly?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

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REP. FOX (146th):

Thank you, Mr. Speaker. And yes, during the course of our public hearing and in our discussions with the Sentencing Commission, which is chaired by Justice Borden, our meetings with him, this is an issue that the Sentencing Commission wants to continue to follow and report upon and they will, and also the Office of Policy and Management intends to gather the information as far as the number of certificates that are requested, the number of certificates that are granted, revoked and as a way of trying to determine the success of this policy.

And the objective as I said earlier, is to find ways to get people back to work and it is the hope and it was the testimony from the Sentencing Commission.

And also, they did reference that other states are doing similar policies and that they have had success with those, the most proximate ones to Connecticut I believe was New York State.

SPEAKER SHARKEY:

Representative Aman.

REP. AMAN (14th):

Yes. Like I believe most of us in the Chamber, I'm hoping that when that report comes out, we find

that many of the individuals have received employment and have lived up to the conditions and the reason that these certificates have been issued.

I thank the Chairman very much for the information he has given us.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark? Would you care to remark further on the bill before us?

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. If I may, a few questions, through you.

SPEAKER SHARKEY:

Please proceed, sir.

REP. SHABAN (135th):

Thank you, Mr. Speaker. And through you, a basic preparatory question. I read this bill a couple of times now and in Committee I was a no vote.

What's the difference? What do you get different from a certificate of rehabilitation that you don't get from a provisional pardon? What the advantage or the disadvantage or the difference? Through you.

SPEAKER SHARKEY:

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Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I think one of the advantages would be the ability to get a certificate of rehabilitation through the Office of Court Support Services Division, which would include the probation officers who are monitoring these individuals and it's something that they could, it is the expectation and what I have heard is that they would be able to process this in a manner that would perhaps even allow the individual to get a job more quickly.

One of the concerns or complaints that we've heard from those who have tried the provisional pardon route is that it just takes a while to get a hearing before the Board.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. So in reality, the only difference is potentially a more expeditious process in getting the paperwork? Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

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Through you, Mr. Speaker, that is a big part of what it is and also who can issue the different, whether it's provisional pardon or certificate of rehabilitation.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. So am I correct then, I'm looking at lines 100 through 110, Section d, that regardless of whatever the route is for the paperwork, that the Board will issue a provisional pardon, a provisional pardon or a certificate of rehabilitation, they both use the same basic three factors. Am I correct?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, they do use the similar factors.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. Well, it seems, unless maybe there's some other factors in the bill I'm missing, but this is what tripped me up in Committee. It's the same test, it appears.

One, we're going to give you a provisional pardon and the other, we may give you a certificate, but it's based on the same factors, and looking at those factors in lines 104 to 106, they're (inaudible) to be granted by the provisional pardon or the certificate of rehabilitation, they promote the public policy of rehabilitation.

Through you, Mr. Speaker, is there a guidepost or a standard that the Board is supposed to look at with respect to that particular public policy?

Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, if for example, if the, well, first of all, if CSSD is going to issue a certificate or if the Board of Pardon and Parole is going to issue a certificate, the same, CSSD would have to utilize the same criteria and what they would do and be required to do is, they would have to, they

can issue a provisional pardon or a certificate of rehabilitation if the offender was convicted of a crime in this state, or as a Connecticut resident and that the relief would promote the public policy of, rehabilitating offenders through employment and the relief is consistent with public safety and protection of property.

It also must be consistent with any concerns that either the Board or CSSD would have with the victim's safety and those are the criteria that they would look at.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. Well, yeah, it really, the three-part test is spelled out there. Again, it appears to be exactly the same for either avenue, which begs the question, why do something different if we're actually doing the same thing?

But with respect to the interests, the safety of a victim of the offense, through you, Mr. Speaker, (inaudible) I would say our Constitution, it's Article First, Section 8b has the right of victims of crime.

That's something that we added to our State Constitution a number of years back.

Through you, Mr. Speaker, other than this five or six word reference to the safety of any victim of the offense, is there anywhere in this bill that the recipient of a certificate of rehabilitation, where the victim gets any input? Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. I mean, as I said, it needs to be consistent with victim safety, so whether it's the Office of Board of Pardon and Parole where the victim would always be notified, or the Office of Probation where the victim, they would also be in contact with the victim.

And as I said earlier, this certificate of rehabilitation is an attempt or an opportunity to bring someone to employment and in most instances, employment would not adversely impact a victim unless the victim was somehow related to that employment, in which case the certificate, that would be considered at the time.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. And I appreciate the response. And so if the answer is, in fact, that just by virtue of the structure of the various commissions, that in fact the victim would somehow receive notice. I think that's a positive thing.

But with respect to the ultimate goal, or the stated goal, trying to get these folks employment, I note that Section c, lines 90 through 99 talks about how a certificate of rehabilitation can be issued any time prior to the eligible offender's date of release from custody.

But then later in the bill it speaks to the fact well, after we, if it's issued prior to the release and we find out you did something bad after the fact, we can revoke that.

Now, through you, Mr. Speaker, if in that interim period an employer makes an employment decision based on this new law, how will that employer get notified that on Monday there's a presumption or there's a statutory requirement that these folks are considered rehabilitated but on Tuesday, perhaps, they're no

longer protected as such. How does the employer get that notice? Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Well, through you, if the individual is on parole, they would have violated their parole. If they are on probation, they would have violated their probation and they would have been required to address those issues by being arrested for that and included amongst that would be the withdrawal of the certificate of rehabilitation and the requirement that it be returned to the respective authorizing agency.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. But as part of that return of the certificate, does the employer, the hypothetical employer, do they get cc'd on the mailer or do they get cc'd on the return of the certificate?

Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

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Mr. Speaker, I'm sorry. I couldn't hear the question.

SPEAKER SHARKEY:

Representative Shaban, could you repeat your question?

REP. SHABAN (135th):

Thank you, Mr. Speaker. My question is, you know, if they violate the probation, fine. I understand that the certificate gets revoked and there's some mechanisms that take effect on the government side.

But how does the employer, the private sector employer who made a hiring decision based on this certificate, how do they get notice that that certificate has since been revoked? Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I know in many instances probation, even without the certificates of rehabilitation they know where the individual is employed because the individual has an employment, continued employment can often be a condition of probation. So they would also know where the

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individual is working through the issuance of a certificate of rehabilitation and they would notify the employer as well, I would assume.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker, and I suspect that assumption is probably correct, but that was one of the sort of the vacant points in some of the discussion we had in Committee in the last couple of years, how does the employer know? I'm not sure we really, I'm not sure we know. Maybe in practice that actually happens. Maybe the parole people do in fact call the employer.

But you know, the hoops that employers have to jump through under this bill should it become law are such that they are required to make certain presumptions but I don't see any hard mechanism in here to relieve them of that requirement, which is another reason that I raise an eyebrow.

The last question, if I may, through you, Mr. Speaker. Section 5 is the operative section where it says, no employer or employer's agent shall and you

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know, paraphrasing, fail to hire someone who has a certificate of rehabilitation.

But further down in Section 6, it appears the state isn't held to that same standard, i.e., the state can in fact not make, not hire these folks based on the factors held in here and all they have to do is write a letter.

Through you, Mr. Speaker, why are private employers held to a more rigorous standard of employment in these circumstances than the state?

Through you.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the way that I would, I mean, I do believe as I stated earlier that the private employer would have the right to not hire somebody if they choose to. There can be a variety of reasons for not hiring someone that go beyond whether or not the person has a certificate of rehabilitation or a provisional pardon.

The, with respect to the public agencies, that language is, let me see, if the application was denied based on, actually I think the standards may be even

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more rigorous is that they would have to provide a written explanation to the applicant of its reasons for the denial.

So through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Shaban.

REP. SHABAN (135th):

Well, thank you, Mr. Speaker. And I agree with the gentleman's read of the statute, but you know, therein lies the problem.

Here we are in Section 5 saying private employer, you must hire or you may not, not hire, solely on the basis that someone has an arrest record and they have a certificate.

But the very next section, the state is held to a less rigorous standard. You have to think about it, you have to give some consideration, there's a presumption that if you still decide not to hire that same person, the same person who's not at a private industry, a private office, who must get hired, all the state has to do is write a letter. All the state has to do is write a letter. I don't think that's quite fair.

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If we're going to put a burden on our private employers, maybe the state should live by the same standard.

Again, I thank the gentleman for his responses. I know this bill's been up and down a couple of times. I'm still not favorably inclined, but I'm going to continue to listen. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir.

Would you care to remark further on the bill that's before us?

Representative Verrengia. Oh, no? I'm sorry.

Would you care to remark?

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. Mr. Speaker, I have a few questions for the proponent of the bill.

SPEAKER SHARKEY:

Please proceed, sir.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. To the Chairman of the Judiciary Committee, as I'm looking through the bill I see in the paragraph of lines 12 through 16 that talks about accepting an application for a pardon, depending

on how many years have elapsed since the conviction, and then it says in line 15, that the Board, upon the finding of extraordinary circumstances may accept an application prior to those dates.

I'm just wondering, it appears that extraordinary circumstances have a positive connotation to them and so I'm wondering what would the nature of extraordinary circumstances be since I don't see it defined anywhere in the bill?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I do believe that's existing law and it can be difficult to come up with an example of the extraordinary circumstances. I don't know one off the top of my head, but it might be a situation where an individual may have even been not, there might be evidence to show the individual is not even guilty, not guilty, which might be something that they would look at, or it might be, I mean that's one example.

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Maybe if the victim was very adamant that they wanted the case, a pardon to be granted, something that would be extraordinary as the word entails.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. Appreciate that answer. Can I assume that extraordinary circumstances refer to actions that the applicant has conducted after his conviction or her conviction or are extraordinary circumstances situations that the Board might accept evidence of that occurred prior to the conviction?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't know that it would be limited, so I would say it could be either scenario.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you very much, Mr. Speaker. And so the finding of extraordinary circumstances would be

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entirely and exclusively under the purview of the Board. Is that correct?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the granting of pardons is entirely under the purview of the Board of Pardon and Parole.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. In the paragraph of lines 23 through 30, several different types of pardons and certificate of rehabilitation are referenced and it says that the grant, in line 27 and 28, the granting of a provisional pardon or certificate of rehabilitation does not entitle such person to erasure of the record of the conviction.

Does that suggest that there are times when erasure of the conviction, record of the conviction would be allowed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

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REP. FOX (146th):

Through you, Mr. Speaker, the Representative is correct in how he interprets this paragraph. I think it's meant to distinguish these types of, whether a provisional pardon or a certificate of rehabilitation is meant to distinguish those from a pardon where a record would be dismissed.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. So that perhaps sets a hierarchy of importance or severity with regard to the various pardon provisional, absolute, certificate of rehabilitation such that only for the granting of a provisional pardon or a certificate of rehabilitation would the erasure be precluded in this paragraph.

Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. I would say there is a hierarchy in that. I think a pardon would always be preferred to any other type of administrative mechanism that could be issued. A pardon would mean

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that you no longer have a record at all. You don't even have to say you had a record before.

And what these other potential mechanisms, such as a certificate of rehabilitation would allow is you to be able to at least say, or at least present information that shows that you have taken positive steps in your life to rehabilitate yourself for the purpose of employment. It doesn't mean, however, that your record is gone.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. On page 3, lines 56 through 62 where the definition of eligible offender is, it talks about one who's been convicted of a crime or crimes and it doesn't give any indication of the severity of those crimes.

Is there some level of severity that would not allow someone to become an eligible offender?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, this is current law, and what it simply says is, those, an eligible person is a person who's been convicted of crime or crimes in this state or another jurisdiction but is currently a resident of the state. It doesn't limit the crimes.

However, by no means does that mean that they're, all pardon applications are granted. Many are not and most oftentimes because of the severity of what the crime they committed.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. Appreciate that answer. Does that mean that there is a certain severity of crimes whereby an offender would not be eligible even for consideration relative to this paragraph?

Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, what I believe this paragraph is intended to do in the way it is drafted is that it takes the existing pardon language and it incorporates the certificate of rehabilitation and it

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really just talks about who can grant these
respective, whether it be a certificate of
rehabilitation or provisional pardon or a pardon, and
it talks about whether it be through the Board of
Pardon and Parole, or with respect to certificates of
rehabilitation it can come under the Probation Office,
which is Court Support Services.

SPEAKER SHARKEY:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. I appreciate those
answers and I thank the good chairman of the Judiciary
Committee for indulging me in these matters.

Thank you. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Are there, thank you, sir.

Would you care to remark? Would you care to
remark further on the bill that's before us? Would
you care to remark?

If not, staff and guests to the well of the
House. Members take your seats. The machine will be
opened.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will members please return to the chamber immediately.

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? Will the members please check the board to make sure your vote is properly cast.

If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Senate Bill 153 in concurrence with the Senate.

Total number voting	142
Necessary for passage	72
Those voting Yea	123
Those voting Nay	19
Those absent and not voting	9

SPEAKER SHARKEY:

The bill passes.

Will the Clerk please call Calendar 120.

THE CLERK:

On page 4, House Calendar 120, favorable report of the joint standing committee on Public Safety and Security, Substitute House Bill 5389, AN ACT

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of that patent would more than likely be determined as a bad faith claim.

Mr. President, I believe that the bill very adequately addresses the practice, the growing practice, in fact, of patent trolling. And it is a step that I think it is important and incumbent upon the State of Connecticut to take, particularly in protection of the small businesses operating in the State of Connecticut. So I urge support and passage of the bill as amended. Thank you, Mr. President.

Mr. President, if there are no further remarks, and if there's no objection, I'd move the bill to Consent.

THE CHAIR:

Any objections to place this on the Consent Calendar?
Seeing none, so ordered. Mr. Clerk.

THE CLERK:

On page 29, Calendar 131, substitute for Senate Bill Number 153, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION. Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Mr. President, may we stand at ease for just a moment?

THE CHAIR:

The Senate will stand at ease.

(Chamber at ease)

SENATOR LOONEY:

Mr. President.

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Senator Looney.

SENATOR LOONEY:

Yes, thank you Mr. President. While we're standing at ease on that matter to, we'll come back for purposes of a proposed referral. Mr. President, on Senate Agenda Number 1 previously adopted earlier today, there was an item, Substitute Senate Bill Number 105, AN ACT CONCERNING SOCIAL INNOVATION INVESTMENT. And Mr. President would ask for a suspension for purposes of an immediate referral of that item to the Appropriations Committee.

THE CHAIR:

Without objection so ordered.

SENATOR LOONEY:

Having received the suspension, now would move immediate referral to the Appropriations Committee.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Mr. President. And if that item might be immediately referred rather than held. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

On acceptance of passage for remark.

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SENATOR COLEMAN:

Mr. President, this is a recommendation of the Sentencing Commission, which is an entity within our governmental structure that I have a tremendous amount of respect and admiration for.

Under current law, the Board of Pardons and Parole can issue what is called provisional pardons. And the purpose and objective of a provisional pardon is to give some seal of approval, if you will, to offenders who have gone through whatever programs have been required of them, have been completely compliant with their respect for authority and demands from authority.

What the certificates of rehabilitation attempt to do is to make certain that barriers to things like employment do not become such big obstacles that ex offenders become more inclined to recidivate.

And so the bill before us would enable the Court Support Services Division, particularly probation officers, to actually issue what would be called Certificates of Employability so that whatever barriers might be in the way of an ex offender obtaining a job opportunity or an occupational license would be removed.

This would be, I think, totally consistent with our effort to support reentry initiatives so that offenders, particularly who are leaving incarceration and returning to our communities, can do so in the smoothest manner possible and have the best possible opportunity of successfully reintegrating into our communities. I support the bill wholeheartedly, Mr. President. I urge the members of the Senate to do likewise. Thank you.

THE CHAIR:

Thank you, Senator. Senator Kissel.

SENATOR KISSEL:

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Thank you, very much, Mr. President. Just a few questions through you to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KISSEL:

Right now we have a provisional pardon, and it's my understanding that the certificate of rehabilitation is being used based on the model of the provisional pardon. I'm just wondering what the distinction is between the grounds that the Board of Pardons and Paroles might grant a provisional pardon versus a certificate of rehabilitation if there are any distinctions. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, to Senator Kissel. I appreciate the question, and there really isn't any distinction. The Board of Pardons and Parole would continue to use provisional pardons. I guess the real application of certificates of rehabilitation would come through the use of probation officers who are members of The Court Support Services Division.

The Court Support Services Division would not be able to use provisional pardons, but they would be able to use certificates of rehabilitation for essentially the same purposes as the Board of Pardons and Paroles uses provisional pardons. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, very much. And through you, Mr. President. Okay, so I'm clear on this, would the granting authority for the certificate of rehabilitation be

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Court Support Services as opposed to the Board of Pardons and Paroles that are the authority that would give the provisional pardon? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. Essentially that would be correct. Through you, Mr. President.

THE CHAIR:

Senator Coleman. Senator Kissel.

SENATOR KISSEL:

Thank you, very much, Mr. President. And through you, Mr. President. So is it a question of just not enough staff to do this at the Board of Pardons and Paroles or is there some sense that Court Support Services would have some kind of insights or expertise that might not be available to the folks that work at Pardons and Paroles? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President. I think the real issue in this case that the Board of Pardons and Parole would probably be dealing with individuals that have been serving some period of incarceration.

The Court Support Service Division's probation officers could be dealing with, not exclusively, but primarily if they're talking about the issuance of certificates of rehabilitation, people who have been sentenced, perhaps convicted of a felony, but not incarcerated, placed on a period of probation, and obviously they would have to do well on probation, comply with any conditions of that probation.

If they were ordered to participate in any particular programs, obviously abide by any laws, and do everything that would be commendable so that a probation officer should say that there should be no hurdle, obstacle, or hindrance to this person actually obtaining a job or competing for a job. And also if they're interested in some occupational license.

The fact of their conviction should not any longer serve as an obstacle to securing and obtaining that occupational license. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, very much, Mr. President. Through you, Mr. President. So under Senator Coleman's example, we have an individual, let's say they're convicted of a D felony, relatively minor felony. They are not incarcerated.

Let's say they're granted probation for three years. Is there any place that either ourselves as Senators and Representatives could look to for a checklist or some sort of outline as to what the criteria is, or members of the public, if they so inquired.

And what I mean by this question is, we have lots and lots of probation officers out there. I was lucky enough, a few years ago, to speak to a graduating class of probation officers. They were extraordinarily impressive men and women. Highly trained.

But I'm just wondering, can one probation officer grant a certificate of rehabilitation after two and a half years out of a three year probationary sentence while another probation officer might say, six months is good enough for me. Here is your certificate of rehabilitation.

And in other words, what would be the touchstone? So is Court Support Services going to promulgate

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regulations or some sort of, like I said, checklist? What would be the criterion? And concomitant with that question is, you know, at some point we don't want it to be too soon.

I know in the example that Senator Coleman gave, the individual has proven that they can toe the line, follow the laws, not get into trouble, maybe go to some rehabilitation, some counseling.

But again, I think it's a big difference between doing two years of a three year probationary bid versus three months. And what's our safeguard to make sure that it doesn't have mission creep so that it's being used without just, I don't want to say just cause, but being used perhaps without enough evidence being gathered to justify what is really a benefit to the individual so that they can go out and get employment. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. And through you to Senator Kissel, again, another very good question. And I'm not sure I was just looking at the lines of the bill to assist in responding to Senator Kissel's question, and I'm not sure that it responds in perhaps the detail that Senator Kissel is interested in.

But in general terms, there is a report that would be required annually to the Office of Policy and Management that would be accessible by the public and would have to delineate the number of applications for a certificate of rehabilitation, the number of certificates granted.

I'm not sure that it necessarily requires the identification of the recipients of provisional pardons or certificates of application. It looks as if it deals with the raw numbers. Through you, Mr. President.

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Senator Kissel.

SENATOR KISSEL:

Thank you, very much. Through you, Mr. President, do we know if there's a checklist or handbook or a set of delineated criteria currently being used by the Board of Pardons and Paroles for conditional pardons? Through you, Mr. President.

THE CHAIR: Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. Through you to Senator Kissel, I'm sure that there are, and unfortunately I'm not certain that I could actually state to the Senator what those considerations are. Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Okay, thank you. Well I could ask more detailed questions, but I don't know I think that given what I've learned from Senator Coleman, I don't know if, at this point in time, there's a checklist or anything in Court Support Services, because we haven't passed the law yet.

There probably is something over in Pardons and Paroles that would be, I hope, and I'm hoping that this can create a little bit of legislative intent, that would be used as a model so that what they used in Pardons and Paroles could be used as the outline to be utilized by the probation officers in Court Support Services regarding this.

One last question, through you, Mr. President, is it anticipated that these convicted individuals would make an application and that it's the probation officers themselves that would sign off on these certificates of rehabilitation or would these

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applications, after being reviewed by probation officers, go through, perhaps, yet another level of review by the probation officers' supervisors. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Mr. President, I believe it would be within the authority of the probation officer. But Senator Kissel's question is important. And I'd request just a moment in order to review some of the provisions in the bill to adequately respond to his question. If I may, Mr. President.

THE CHAIR:

Senate will stand at ease.

(Chamber at ease).

SENATOR COLEMAN:

Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. In response to Senator Kissel's question, it looks as if there would have to be some review by the Court Support Services Division, whether that would be a supervisor of an officer or whatever is the hierarchy at the Connecticut I'm sorry, the Court Support Service Division.

The language of the bill actually says that CSSD would be the ones to grant certificates of rehabilitation. So I may have been misleading if I said probation officers are fully authorized to issue certificates of rehabilitation. It's actually the authority is vested

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in the Court Support Services Division. Through you,
Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, very much, and I very much appreciate Senator Coleman's answers to my questions. I find it very reassuring that supervisors or those in more management level areas of Court Support Service Division of the Division of the Judicial Branch would be passing judgment on these and working very closely with the probation officers.

Those men and women would have an abundant amount of information as to how had these convicted individuals were behaving under probation.

This bill has been before us a number of years. I was very appreciative when, in years past, Senator Coleman changed the bill a little bit to take the housing portion out of there. I know many, many people in my district were very appreciative of that.

I will state that during this year's public hearing once again it was very clear that there's support for certificates of rehabilitation from individuals in the business community. And I think fundamentally when we realize, I believe that most inmates or most individuals convicted in our criminal justice system only serve about three years.

And again in the examples used by Senator Coleman, some of these individuals don't aren't incarcerated at all, and we need to sort of get to that fundamental acknowledgment that while there is crime in our society, and there are violent offenders, the vast majority of individuals who do go into our criminal justice system come back out in a fairly short period of time.

And we need them. We need them to be law abiding, prosperous members of our society. Taxpayers giving back to society, and this is a way to help reintegrate

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them into the law abiding society that we all cherish here in the State of Connecticut. So for those reasons, Mr. President, I'm happy to support the bill as it is being debated here on the floor of the Senate. Thank you, very much.

THE CHAIR:

Thank you, Senator. Senator Ayala.

SENATOR AYALA:

Thank you, Mr. President. I want to commend the Chairman of Judiciary for bringing this bill out. This is an issue that is of extreme importance to me and individuals in the district that I represent.

In Bridgeport we have a reentry collaborative that works very, very hard on issues that are impediments to individuals who are coming into the world of reentry. And advocates, agencies, and all types of folks that this issue matters to them, they meet on a monthly basis to talk about the issues affecting these individuals.

And the fact of the matter is that the prime issue or the prime thing that is most important to these people coming from the world of reentry is a job. And the fact that they cannot find employment because this is an impediment, their past record, and to see that we're taking steps to try to deal with this issue and to try to create the opportunity so that they can get gainful employment is important.

Just recently, about a month ago, I held an informational forum in my district, and we had standing room only at the facility where we were at. Over 100 individuals came to that forum to listen to how they can go about getting their records clean. How they can go and apply for a pardon. Fact of the matter is a pardon is not an easy thing to achieve. It is very difficult. The process, the application is very, very strenuous. It's very detailed, and very complicated.

And these individuals that I got to meet in my district, essentially their message was, I want to do

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the right thing. I want to be employed. I don't want to go back to jail. I don't want to turn to a life of crime. And I believe that the language contained within this bill will create that opportunity for the individuals that I met with over a month ago just simply talking about I want a chance, I want to get back in.

And in most cases what we're talking about is really entry level position. So I think this bill points us in the right direction, and I want to commend the Chair on Judiciary for taking bringing this bill out today. Thank you.

THE CHAIR:

Thank you, Senator. Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I stand for purpose of questions to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR MCLACHLAN:

Thank you. Senator Coleman, thank you for your work on this topic. Although I do have some questions. I supported the bill coming out of Committee, and have been studying the issue since then to be sure that I can be comfortable with this going forward, and I do have a concern about the comparison between a provisional pardon and a certificate of rehabilitation.

Could you please clarify the specific difference, if not difference in the ultimate result, the difference in the process of awarding such a pardon or rehabilitation certificate? Through you, Mr. President.

SENATOR COLEMAN:

Through you, Mr. President --

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THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

-- to Senator McLachlan, it would be difficult for me to distinguish between a -- to make some technical distinction between a provisional pardon and a certificate of rehabilitation. The Board of Pardons and Parole has authority to grant both.

As I indicated to Senator Kissel, the main distinction that I can make between the two vehicles is that the Court Support Services Division can also grant certificates of rehabilitation. But not provisional pardons. The provisional pardons is the exclusive domain of the Board of Pardons and Parole.

But both have the same objective and the same purpose, and that is to relieve an offender or an ex offender of any impediments or barriers that they may encounter because of their conviction to employment opportunities or occupational licensing opportunities.

Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman. For further clarification, if someone is issued a certificate of rehabilitation, what is their next step to translate or transform that into a full pardon? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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Mr. President, through you to Senator McLachlan, that may be a distinction between the two vehicles. A certificate of rehabilitation cannot be transformed into a full pardon. The provisional pardon can, in fact, at some point in time, after obviously certain considerations, a provisional pardon can be transformed into a full pardon. Certificates of rehabilitation cannot be. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman. The certificate of rehabilitation is treated the same as far as employers as a provisional pardon, is that correct? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I think both vehicles would indicate to a prospective employer that this is this applicant for the job opportunity is good and acceptable individual. So if I understand your question correctly, I would say simply yes in response to your question.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Well, because it's a new process, I'm assuming that employers may have been exposed to a provisional pardon before, and not be familiar with a certificate of rehabilitation. The question being more specifically, let's say, employment application has a question, have you ever been convicted of a felony.

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And of course, we know in Connecticut you can't make a decision based solely on that question however that question may be asked. Is there a difference in the way in which an employer must deal with an affirmative answer to that question, whether it's a certificate of rehabilitation or a provisional pardon? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President to Senator McLachlan. There's no liability that attaches to an employer who rejects an applicant that is the bearer of a certificate of rehabilitation. Nor is there any liability that attaches to an employer who hires someone who presents a certificate of rehabilitation and then maybe commits some negligent act that maybe injures a third party.

There is no exposure for an employer. It's merely encouragement on the part of our Criminal Justice Division, perhaps, and our Board of Pardons and Paroles that this is an individual that is worth a chance. This is an individual that has gone through the rigors of some of our services and programs and we would encourage and incentivize an employer to hire this individual. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Senator Coleman, thank you for that answer. I'm just trying to understand the process a little better as you envision it to occur with this new certificate of rehabilitation made available to persons convicted of a felony.

So if we have a individual convicted of a felony many years ago, let's say it was ten years ago. Completed a three year period of probation, longstanding, has

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done just fine since them. Is there seeking to be sort of the entry level way for them to begin the pardon process? What would that individual do to ultimately achieve a pardon? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President. I would respond that the certificate of rehabilitation doesn't really contemplate a pardon at the -- you know, at some future point. In order for someone who receives a certificate of rehabilitation to receive a pardon, that individual would have to apply for a pardon, make an application for a pardon, and go through that process in order to get the benefits that a pardon would bring. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman. You raised a point now for us nonlawyers that there's a distinct, a very big difference between a certificate of rehabilitation and a pardon or even a provisional pardon.

But let's stay on the pardon comparison. The process is very different. The end result is very different. And I guess most importantly to the individual who is ultimately granted a pardon, the the benefits far exceed the benefits of a certificate of rehabilitation. Do I have that understanding correct? Through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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Through you, Mr. President, yes, I think you have that correct, yes.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, and thank you, Senator Coleman.

So if there is a very dramatic difference in the achievement, if you will, the end result of what can be achieved by a certificate of rehabilitation versus a pardon, but yet this bill talks about certificate of rehabilitation being treated substantially the same for an employer in their decision making process for the state in their decision making process for employment and/or licensure, and ultimately, as I understand, in potential future liability.

Do I have that understanding correct? Through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I think you have that correct in the context of an employment situation, yes. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Thank you, Mr. President. Thank you Senator Coleman. So there's I guess this is where I'm struggling and just trying to be fully understanding of what you're seeking to accomplish here.

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You are proposing a certificate of rehabilitation with a lower barrier to achieve than either a provisional pardon or a pardon. It's a lower barrier for a few reasons. One is it is more administrative by way of probation office.

I'm assuming that it's going to have a supervisor input and a final decision, that it's not just one person making that decision versus a provisional pardon or a pardon that is coming from the Parole Board which is a very formal process that's been in place for many years.

So you have a different, a burden, if you will, to achieve success in each of those clearances, if you will. And yet the end result is they're all treated the same regardless of the burden of achieving those points. Certificate of rehabilitation, provisional pardon, or pardon, they all achieve the exact same results, I believe, in the end result.

So I guess I'm trying to understand if the pardon is sort of the best deal that everyone ultimately would like to achieve, why is it that the lower hurdle, if you will, grants them essentially the same benefit. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. Through you to Senator McLachlan. I guess I would encourage the Senator to somewhat modify his perception of the vehicles. Either provisional pardon or a certificate of rehabilitation, the main objective of either of those vehicles is to assist an individual who has demonstrated worthiness to become employed or to receive some sort of license.

In either case, it's not necessarily so that the ultimate outcome has to do with achieving a full pardon. This is merely for the limited purpose of encouraging employers to take a chance, if you will,

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on a person who does have a record, but has, in every other respect, demonstrated that they could be a very productive employee.

So the process at The Board of Pardons and Paroles, I'm sure it's comprehensive and thorough, but there are some that might suggest that the individual who is receiving the certificate of rehabilitation is subject to perhaps greater scrutiny, direct scrutiny, individual scrutiny, because of the direct, almost one on one relationship between that individual and the probation officer who is going to make a decision that this person should receive a certificate of rehabilitation or make some recommendation to someone higher up or some group higher up that this person should receive a certificate of rehabilitation. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman. I think I do I think I do understand the very distinct difference between a pardon, a full pardon, and a certificate of rehabilitation. And I know why we're here, and it does make sense. We're here to get people back to work. So that makes perfect sense. But I'm still I'm still sensing a -- a difference in barrier, but yet the same end result of benefit.

And so just let me ask another question about the new proposed process application process for a certificate of rehabilitation. Do you envision, because I don't see it very clearly spelled out in the bill, do you envision that a probation officer makes the decision by themselves or would it require some other supervisory agreement to their decision? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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Through you, Mr. President. Technically the Court Support Services Division has the authority to grant a certificate of rehabilitation. So I think the probation officer could initiate the process, could make the recommendation that this individual should be considered for a certificate of rehabilitation.

But I think it would be someone or someones within the hierarchy of Connecticut the Court Support Services Division that makes the ultimate decision regarding who receives a certificate of rehabilitation. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman. Maybe I could just move on to another point about the liability issue that was addressed in the Office of Legislative Research analysis of the bill. And it was very helpful and talks about limits of admissibility of a prior conviction in negligence actions.

Could you elaborate for us, if you will, does this creation of a new certificate of rehabilitation affect in any way the existing limits regarding liability versus the current existing provisional pardon through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Mr. President, I'm afraid I'm going to have to ask Senator McLachlan to repeat his question. I think it had to do with whether the adoption of the whole certificate of rehabilitation has any effect on our current negligence law. Through you to Senator McLachlan.

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Senator McLachlan, can you rephrase your question?

SENATOR MCLACHLAN:

Thank you, Mr. President, and thank you, Senator Coleman. No, I think you've got the gist of the question, and that is, is there any difference with the current scheme, if you will, of limits in liability under a provisional pardon versus the new proposed certificate of rehabilitation. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Mr. President, through you to Senator McLachlan, I don't believe that the certificate of rehabilitation has any profound effect on the negligence analysis at all. And under the bill, as it indicates, it just creates a rebuttable presumption that the employer is not at fault for either the hiring or the retention of the employee or for any act of negligence that the employee might have committed. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, thank you, Senator Coleman. Pardon me. As I understand, the State of Connecticut may deny employment or licensure in all of these cases, whether it be a certificate of rehabilitation or a provisional pardon. With reason, of course. And I'm not really clear on whether a private entity has that same ability to deny employment for reason. Could you clarify that for us, please? Through you, Mr. President.

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Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President, and through you to Senator McLachlan. I think this bill is clear that a private entity would have the same insulation as the state would be. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And thank you, Senator Coleman. I I think I'm I just have one more question, if I may, and that pertains to the fiscal note in the bill, and I wonder if you could just provide your opinion.

The fiscal note indicates of no fiscal impact, but I'm hearing a very heavy demand, potential heavy demand for certificates of rehabilitation, which in my mind means, if you have many, many applications for such a vehicle, then you'll have an awful lot of human resources, investigative resources, et cetera, put into motion for this.

And so I'm confused why there's no fiscal note when it's obvious that there's going to take an awful lot of time and effort to implement this program. Could you please comment on your opinion of the fiscal note in this matter? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President. I think the fiscal note merely contemplates that whatever services need to be performed in connection with certificates of rehabilitation could be performed within the current functions and responsibilities of the staff of the Court Support Services Division.

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And I guess as an example I would simply say that the probation officers who supervise probationers ordinarily would form some opinion of the character, for example, of that probationer would form some opinion of the probationer's compliance with, perhaps, conditions of probation, like requirements to take anger management classes or to engage in educational opportunities or vocational opportunities, and would be able to comment on that.

The only difference now is that that same analysis that the probation officer makes regarding the person under his or her supervision is they don't make that they don't turn that report into a recommendation to Court Support Service Division for the determination of whether that probationer should receive a certificate of rehabilitation or not. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, thank you, Senator Coleman. A follow-up question, if I may, in the on the same topic. Is there an anticipation or a estimate that seems reasonable to you of the number of applications that we should expect for this new program of certificates of rehabilitation over the next fiscal year, let's say. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, I would hesitate to make any prediction or estimate. I think whatever estimate anyone else makes would be limited to the amount of people that annually are placed on probation and the number of individuals who apply for would be less than that number, in all likelihood. And the number of

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people who actually receive a certificate of rehabilitation will be even less than that.

But I think the controlling number would be the number of people that are typically on an annual basis, placed on probation. Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. One final question. I guess now, Senator Coleman, if I may, do you know how many people are placed on probation in Connecticut per year? Through you, Mr. Chairman Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President, and through you to Senator McLachlan, I probably should know that number, but I do not.

THE CHAIR:

Senator McLachlan.

SENATOR COLEMAN:

Not off the top of my head, no, Mr. President.

SENATOR MCLACHLAN:

Thank you, Mr. President. Thank you, Senator Coleman for your help in answering the many questions that I had. I know you've put a lot of time and effort into this over the years. And I'm going to continue to listen to the debate on this topic. I still have reservations about the program.

I'm a bit concerned that we may we may not quite have a handle on what the end result of this program

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is going to be as we launch it, and I was hopeful that the application and approval process was going to be a little better formalized before it leaves this building.

I think we're leaving an awful lot to Court Support Services Division to implement. They do a fine job, I'm sure, in everything that they do. But I just don't seem to have all the comfortable answers that I'm seeking in what's the process going forward. So I'm going to continue to listen to this debate and I thank you for your time. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further? Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. Thank you, Senator Coleman for your answers to Senator McLachlan's questions. I think you touched on a lot of issues that were of concern to me, and I have a few more questions, because I just want to make sure I understood the answer. So if I may, through you, Mr. President, inquire of the proponent of the bill.

THE CHAIR:

Please proceed.

SENATOR WELCH:

Thank you. So listening to the well, I guess, let me back up. As I'm beginning to understand a certificate of rehabilitation, an individual who has one will still have a criminal record, is that correct, through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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Thank you, Mr. President. Through you, that is correct.

SENATOR WELCH:

Okay.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And so when that individual applies for a job, if there is a question on the application with respect to his or her criminal record, they will still be disclosing what that criminal record was to the extent it's a legal question. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, it's my recollection that on an employment application it would be permissible to inquire concerning the conviction for a felony offense. And I don't think there's anything that precludes a prospective employer from inquiring concerning further detail regarding the offense once they receive the response that there is a conviction for a felony offense.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. That's my recollection too, but if they have a felony offense and they have a certificate of rehabilitation, they still have to answer that question in the affirmative, at least. The certificate doesn't allow them to answer in the

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negative. Is that correct, through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President, and through you, that is correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

And then I would imagine procedurally at that point in time, either on the application or in the application they would then disclose that they have a certificate of rehabilitation to the prospective employer. Is that how the process would work? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, that is correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And if I could, then, let me just set that aside for now, and if I could, Senator Coleman, draw your attention to Section 3 which is where we state that the Court Support Service Division may issue these certificates. And I just, I think I understand the answers to the questions, but I just want to ask them maybe a little bit clearer. Right now Court Support Services cannot offer

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provisional pardons. Is that correct, through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, that's correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

And so in Section 3 so this will be the first time that they will be offering any type of, I guess, relief from the cloud of a conviction, as it were. Section 3 doesn't set out how what the process is or, sorry for asking a compound question, but what the process is for them determining who is eligible for these or even the criteria. Is that is that accurate, through you, Mr. President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

If I understood the question correctly, that is accurate, yes.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Did you give thought to maybe fleshing that out a little bit more? And by that I mean setting forth criteria as to what would be considered when one applies for a certificate? Through you, Mr. President.

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THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President, I think the prevailing view was the -- those that work for the Court Support Services Division have the requisite expertise in order to develop whatever criteria would be useful.

And I guess this is an initial foray, and I think everyone would probably concede that perhaps further evolution and development may be necessary. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. I think so that's a very fair answer. One way I guess I kind of think about it is, and I don't know the answer to this question, but hearing how akin these are to provisional pardons, do we have criteria for the Board of Pardons, when they consider provisional pardons? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Yes, I'm pretty certain that there is criteria. Unfortunately at this moment I don't know if I can cite that criteria for the good Senator. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

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Thank you, Mr. President. Do you happen to know that if it's statutory or is it a regulation? Through you? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I don't know. My suspicion is probably both, but that would just be my suspicion at this point. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And I'm sorry for not asking this question earlier, but Senator Coleman, when you and Senator McLachlan were kind of trying to parse the differences between a provisional pardon and certificate of rehabilitation, did that dialogue develop appreciable differences between the two, through you, Mr. President, other than the fact that the Board of excuse me, the Court Support Service Division could issue a certificate of rehabilitation but not a provisional pardon. Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Mr. President to Senator Welch, the dialogue between Senator McLachlan and I did not develop any appreciable distinctions between the provisional pardon and the certificate of rehabilitation other than who is authorized to issue.

And it is technically the case that the Board of Pardons and Parole can issue both provisional pardons and certificates of rehabilitation. But the Court

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Support Services Division could only issue certificates of rehabilitation. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Senator Coleman, thank you, Mr. President. One other point I guess I just want to clarify, when you say that the Board of Paroles can offer a certificate of rehabilitation, just so I understand, that's if and when this bill passes, there's no certificate of rehabilitation as we stand here today, is that correct?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President, that is correct.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you. So when we look at a certificate of rehabilitation and we define it in Section 2a3 to be to mean a form of relief from barriers of forfeitures to employment, what exactly what exactly do we mean?

And if I may, I understand it to mean one thing, and that is we are saying as the State of Connecticut that we consider this person no longer to be a threat to to an employer because of his or her past indiscretions.

But does it mean more than that? Because I got a little confused, I think early on part of the dialogue with Senator Kissel led me to believe that, you know,

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this isn't going to prevent it's not going to create any liability for employers who may hire or fire somebody who has a certificate of rehabilitation.

But then I think I understood from the discourse with Senator McLachlan that there's provisions in here, I think it was Section 5 he was pointing to which actually prohibits employers from make either prospective employment decisions or employment decisions about current employees.

So if you could maybe elaborate as to what what is the effect of the certificate of rehabilitation? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

The general effect of the certificate of rehabilitation, through you, Mr. President, is to encourage a prospective employer to make an employment decision on the basis of the qualifications of the individual that's seeking the employment opportunity.

And while the fact of a conviction is brought to the attention of the employer, the employer is being encouraged by a certificate of rehabilitation not to base his decision to hire, as an example, merely upon the fact of the conviction. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. Thank you, Senator Coleman. I guess I get the the encouraging part of it, but I'm a little confused by whether or not it actually means more.

So when I look at Section 5, Subsection E, as it were, we state that no employer shall discharge or cause to

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be discharged an employee solely on the basis that the employee had, prior to being provided employed, a criminal charge or conviction, the records of which have been erased before that employee has received a provisional pardon.

So I mean, I could think that if you are an employer and you have an employee working for you that did not disclose their conviction on an application, you've got an issue beyond the actual conviction. You've got this failure to provide information.

But, I mean, this seems pretty dispositive that if you have a conviction and you have a certificate and I think I need to fire you based on that conviction, let's say it's, you know, it's a fraud with respect to financial crime and I'm in a financial institution, that I will now no longer be able to terminate you.

And maybe I'm reading that wrong. Maybe I'm reading it right, but there really is no civil consequence beyond that. But perhaps, Senator Coleman, maybe you could just help me understand what we mean by that part of the statute. Through you, Mr. President.

SENATOR COLEMAN:

Through you Mr. President --

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

-- to Senator Welch, I think that the key word in that set of lines is the word solely. And additionally I would draw the Senator's attention in line 219 to the language there that says, charge of conviction, the records of which have been erased pursuant to some statutory provisions.

Generally if a record is erased or should have been erased, then that would not be a basis for an employer to take an adverse employment action against the employee.

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Furthermore, I think what this paragraph seeks to get at is if an employee is hired, and hired perhaps with the assistance of a certificate of rehabilitation, a certificate of employability, and something, I don't know what, occurs somewhere down the road, the language encourages the employer not to revert back to the fact that there was a conviction in this employee's history, and to rely solely on that as the basis of a termination or discharge or some other adverse employment decision. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. And I appreciate that answer, and I think in looking at those sections closer, what it really says to me is whatever our current rules are for provisional pardons with respect to employment decisions, and, I guess, full pardons to the extent we have erased records, the same rules apply for individuals with certificate of rehabilitation. And I guess just so I can get clarity, through you, Mr. President, is that essentially correct understanding of Sections D and E? Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Mr. President, through you I would say that that is a correct statement. Through you, Mr. President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. I thank Senator Coleman for his answers, and I really, I thank him for bringing

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this bill forward. I think conceptually it's the right thing to do to provide an environment where we can give people second chances, especially those that have demonstrated the need for second chances.

Where I guess I draw some concern is that already having a process of provisional pardon, and maybe full well appreciating that the Board of Pardons is pretty busy. They can't get to do all that they need to do.

But already having a process, my natural inclination is to draw to that process and look to that criteria and establish that already established criteria for provisional pardons for then the certificate of rehabilitation.

And and although I believe we have very competent we have a very competent Court Support Services Division, we haven't really given them any guidance as to what our expectations are procedurally as to how they should handle this process.

I think what I've appreciated from the discourse so far today is that at the end of the day we could find ourselves at two extremes. One where these certificates are being issued by the parole officers themselves. One where it's they're being issued by a committee or a board within the board. And not that one is necessarily worse than the other.

For instance, I think Senator Coleman made some good points, that these parole officers are actually going to have a better and more intimate knowledge of the individual's rehabilitation than the Parole Board or even some committee within Court Support Services Division.

But we've really kind of left it open ended. And if my experience here wasn't such that when we have left things so open ended, sometimes we've gotten, I think, the wrong result. I think I would be more inclined to just embrace the concept in its entirety as it is written.

But given that we have criteria for provisional pardons, we've decided not make those criteria the same criteria for rehabilitative excuse me,

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certificates of rehabilitation. And given that we haven't really given our vision of a framework, I have pause. Because I think this is a good idea.

I think this is, in a lot of ways, the right things to do the right thing to do, but I've seen so far good ideas and the right thing to do run amok in the execution, and that just, that gives me great pause. And I got to tell you, I'm really on the fence with respect to this one. So thank you, Senator Coleman for your patience, and truly thank you for your hard work in this issue. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Will you remark further on the bill? Will you remark further on the bill? If not, Clerk, please announce the pendency of a roll call vote. The machine will be open.

THE CLERK:

There will be an immediate roll call vote in the Senate. Immediate roll call vote in the Senate. All senators please return to the chambers.

THE CHAIR:

Senator Boucher. Senator Boucher.

Have all members voted? If all members have voted, please check the board to make sure your vote is accurately recorded. If all members have voted, the machine will be closed. And the Clerk will announce the tally.

THE CLERK:

All those voting.

Total	36
Aye	36
Nay	0
Absent	0

THE CHAIR:

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The bill passes. Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President I have a couple of additional items to mark go. From the Public Health Committee, and the first is under Favorable Reports Calendar page 10, Calendar 286.

THE CHAIR:

Senator Looney. Senator Looney. Senate, come to order, please so I can hear the majority leader. Please proceed, sir.

SENATOR LOONEY:

Yes, thank you, Mr. President. There are three items. Calendar page 10, Calendar 286, Senate Bill Number 35. Calendar page 10, Calendar 287, Senate Bill 257. And under Matters Returned, Calendar page 28, Calendar 114, Senate Bill 295. If those items might be called in order.

THE CHAIR:

Thank you, Senator. Senator Bye, purpose of announcement.

SENATOR BYE:

Thank you, Senator. I'd just like to an announcement that there will be an Appropriations Committee at 10:45 tomorrow morning in room 2C. Thank you

THE CHAIR:

Thank you, Senator.

SENATOR BYE:

Mr. President.

THE CHAIR:

Any other announcements or points of personal privilege? Senator Stillman.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 3
886 – 1483**

2014

DAVID BORDEN: Good afternoon. Good afternoon, Chairman Coleman, Vice Chairman Ritter, Ranking Members Kissel and Rebimbas, and other Members of the Judiciary Committee. I am David M. Borden, and I am the chair of the Connecticut Sentencing Commission, and I'm here this afternoon to testify in support of Raised Bill Number 5221, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES.

SB153 This is item six on your agenda, I believe. And in addition to my testimony on this bill, Andrew Clark, who is the acting director of the Sentencing Commission, and Professor Sarah Russell of Quinnipiac Law School will testify in support of item one on your agenda, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

I'd first like to give you some brief background about the Sentencing Commission. We are a permanent commission created about three years ago basically consisting of all the stakeholders in the criminal justice system of Connecticut.

Our membership includes the Commissioner -- Commissioners of Corrections, Emergency Services and Public Protection, and Mental Health and Addiction Services, the Chief State's Attorney, the Chief Public Defender, the Victim Advocate, judges, representatives of the business community, community activists interested in the criminal justice system, the chair of the Board of Pardons and Parole, a municipal police chief, the undersecretary of the Criminal Justice Policy and Planning

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cip/gbr JUDICIARY COMMITTEE

March 3, 2014
1:00 P.M.

parole hearing would have to be no later than
24 years, 60 percent of -- of 40.

SENATOR COLEMAN: Thank you. Are there other
Members that may have questions? If not, thank
you very much for your testimony, Justice.

DAVID BORDEN: Thank you. I -- I don't know whether
I can, but -- but Andrew Clark and Sarah
Ferguson are here from the Commission to
testify on the certificates of rehabilitation
bill. (Inaudible).

SENATOR COLEMAN: Okay.

DAVID BORDEN: What's your pleasure?

SENATOR COLEMAN: Hmm. Mr. Clark and Miss Ferguson,
would you like to take a moment to add whatever
comments you like?

ANDREW CLARK: Sure, just -- just briefly, and it's
Sarah Russell from --

SENATOR COLEMAN: Sarah Russell.

ANDREW CLARK: -- Quinnipiac Law.

SENATOR COLEMAN: Sorry.

ANDREW CLARK: She's a member of the Commission's
Certificate of Rehabilitation Working Group,
and I'm Andrew Clark, the acting executive
director of the -- the Commission. Hello,
Senator Kissel, Senator Coleman, Representative
Ritter, and Representative Rebinbas and Members
of the Commission -- the Committee.

Essentially, this is the third time we've come
before you for the certificates legislation.
They -- in 2006, just -- just briefly, 2006
General Assembly created the Division of Pardon

SB153

Program, which provides a mechanism for removing variants to employment and licensing that individual based -- based on his or her prior criminal convictions.

In 2012, the Commissioner at Connecticut Sentencing Commission, recognizing that the two most significant barriers to successful reentry in are employment and housing, recommended legislation to amend the statutes governing divisional pardons. The legislation, which was called AN ACT CONCERNING CERTIFICATES OF RELIEF FROM BARRIERS RESULTING FROM CONVICTION OF A CRIME, received a favorable report from this Committee but ultimately was not enacted.

And most of the concerns from 2012 focused on the housing proportion of the proposed legislation. The Commission reconsidered its proposal and subsequently recommended a phased approach to the legislation. It took out housing and just focused solely on employment.

And in 2013, the legislative session, the Commission's proposal became House Bill 6582. It reached the House floor where it was debated and passed with a friendly amendment House A. The bill did not receive a vote in the Senate. But the Commission's 2014 recommendation reflects the 2013 final House version of H.B. 6582. So that's what we have before you, and you have our testimony.

SENATOR COLEMAN: Thank you. And, Miss Russell, are you adding anything?

SARAH RUSSELL: I think you have our testimony, so we'll -- we'll leave it to that unless there are any questions.

SENATOR COLEMAN: Are there questions? Seeing none, thank you both.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 4
1484 – 1903**

2014



State of Connecticut
African-American Affairs Commission
State Capitol
210 Capitol Avenue – Room 509
Hartford, CT 06106
860-240-8555

Good Afternoon Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas, Honorable members of the Judiciary Committee.

My name is Subira Gordon and I am the legislative Analyst for the African American Affairs Commission. I am writing today to support RB 153 AAC the Recommendations of the Connecticut Sentencing Commission with Respect to Certificates of Rehabilitation.

There are many barriers that African Americans face when trying to find employment in the State of CT. The unemployment rate for African Americans is 12.2% while for Caucasian residents the rate is 7.7 %. One of the factors that have helped to create this disparity is the alarming rate of African Americans that are arrested and convicted of crimes resulting in a criminal record which then creates a barrier to finding employment. 42% percent of the prison population in Connecticut is Black or African American. This bill would help many of these individuals access employment upon as a part of their re-entry to the community.

This proposal allows ex-offenders who have demonstrated rehabilitation to be granted a certificate of rehabilitation by the Board of Pardons and Paroles or the Court Support Services Division of the Judicial Branch. The certificate is similar to a provisional pardon which is also granted by the Board and would be revoked if an individual is later convicted of a crime. As proposed, private and public employers would be prohibited from denying employment or

Our Mission

To improve and promote the economic development, education, health and political well-being of the African-American community in the State of Connecticut

granting a license to an applicant, discharging or discriminating against an employee or potential employee solely based on a conviction for which an individual has been granted a certificate. The certificate is not an absolute pardon for the crime however it eliminates one of the barriers to employment faced by African Americans who are convicted of a crime.

The disproportionate representation of African Americans in the criminal justice system is directly related to the achievement gap and housing segregation problem in Connecticut. If we give individuals access to employment this will be a step in the right direction and possibly a way to make strides in creating a more equal Connecticut.

The AAAC is pleased with section (l) of this bill that requires the board to submit data to the Office of Policy and Management which will be critical for analysis and future possible reforms in the criminal justice system.



Subira Gordon

Legislative Analyst

African American Affairs Commission



**Connecticut
Sentencing
Commission**

www.ct.gov/opm/csc

TESTIMONY IN SUPPORT OF SB 153

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

By Andrew J. Clark

Acting Executive Director, Connecticut Sentencing Commission

& Attorney Sarah Russell

Member: Certificates of Rehabilitation Working Group of the Sentencing Commission

Good morning Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee.

I am Andrew Clark, the Acting Executive Director of the Connecticut Sentencing Commission. I am joined here today by Sarah Russell, Associate Professor of Law at Quinnipiac University School of Law and a member of the Sentencing Commission's Certificates of Rehabilitation Working Group. We are here to testify on behalf of the Commission in support of Senate Bill 153, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO CERTIFICATES OF REHABILITATION.

In 2006, the Connecticut General Assembly created the provisional pardon program, which provides a mechanism for removing barriers to employment and licensing that an individual faces based on his or her prior criminal convictions. In 2012, the Connecticut Sentencing Commission, recognizing that the two most significant barriers to successful reentry are employment and housing, recommended legislation to amend the statutes governing provisional pardons. The legislation, "An Act Concerning Certificates of Relief from Barriers Resulting from Conviction of a Crime," received a favorable report from the Judiciary Committee, but was ultimately not enacted.

Most of the concerns in 2012 focused on the housing portion of the proposed legislation. The Commission reconsidered its proposal and subsequently recommended a phased approach to the legislation. In the 2013 legislative session, the Commission's proposal became House Bill 6582. HB 6582 reached the House Floor, where it was debated and passed with a friendly amendment, House A. The bill did not receive a vote in the Senate.

The Commission's 2014 recommendation reflects the final 2013 House version of HB 6582.

The proposed legislation would create a "certificate of rehabilitation," which could be granted by both the Court Support Services Division and the Board of Pardons and Paroles and would have the same purpose and legal effect as a provisional pardon. The legislation would expedite the process for obtaining relief, provide greater guidance to licensing agencies and state employers, and give employers who hire rehabilitated individuals some protection against lawsuits. More

**The Honorable
David M. Borden, Chair**

**Undersecretary
Mike Lawlor, Vice Chair**

**Andrew J. Clark, Acting
Executive Director**

specifically, the legislation would:

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The Honorable
Gary White

- **Revise current law to allow the Court Support Services Division of the Judicial Branch to issue “certificates of rehabilitation” during an offender’s probation period.** Certificates of rehabilitation would be issued pursuant to the same standards used for granting provisional pardons and they would have the same legal effect as provisional pardons.
- **Retain the authority of the Board of Pardons and Paroles to issue provisional pardons, and revise current law so that both parole release panels and pardons panels of the Board may issue certificates of rehabilitation.**
- **Ensure the safety of victims by providing that both provisional pardons and certificates of rehabilitation shall be granted only if consistent with the safety of any victim of the offense.**
- **Provide that a provisional pardon/certificate of rehabilitation establishes a rebuttable “presumption of rehabilitation” in the state employment and licensing context.** Under current law, in most instances, state employers and licensing agencies in assessing the suitability of an applicant with a prior conviction must consider the age of the conviction, its relationship to the employment or license sought, and evidence of the applicant’s rehabilitation. The provisional pardon/certificate would establish a presumption that the applicant is rehabilitated per the assessment criteria in such applications and/or processes. The state employer or licensing agency would retain discretion to deny the employment or license based on the conviction and would be required to provide a written statement of reasons for the denial decision.
- **Afford employers limited protection in negligent hiring suits.** In an effort to provide an incentive for employers to hire individuals who have obtained certificates comparable to provisional pardons, at least three states—New York, Illinois, and Ohio—have enacted legislation that offers employers some form of legal protection in relation to the hiring of these employees. Following New York’s approach, the proposed legislation would create, in cases alleging that the employer has been negligent in hiring or retaining an employee with a prior conviction, a “rebuttable presumption” in favor of excluding from evidence the prior conviction if a provisional pardon/certificate of rehabilitation was issued to the employee and the employer knew about the provisional pardon/certificate at the time of the alleged negligence or other fault.
- **Require the Sentencing Commission to evaluate the effectiveness of provisional pardons and certificates of rehabilitation at promoting the public policy of rehabilitating ex-offenders consistent with the public interest in public safety, the safety of victims and the protection of property for a period of three years and report to the Judiciary Committee concerning amendments to the general statutes in order to promote such public policy.**

CCDLA
"Ready in the Defense of Liberty"
Founded 1988

**Connecticut Criminal Defense
Lawyers Association**
P.O. Box 1766
Waterbury, CT 07621-1776
(860) 283-5070 Phone/Fax
www.ccdla.com

March 3, 2014

The Honorable Eric D. Coleman
The Honorable Gerald M. Fox.
Chairmen
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

**Re: Raised Bill SB. 153, An Act Concerning the Recommendations of the
Connecticut Sentencing Commission with Respect to Certificates of
Rehabilitation - Testimony of The Connecticut Criminal Defense Lawyers
Association by John Walkley, President**

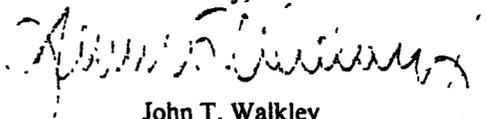
Dear Chairmen and Committee Members:

CCDLA is a not-for-profit organization of more than three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

CCDLA supports Raised Bill SB 153, an Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Certificates of Rehabilitation. This proposed bill would reduce the barriers faced by individuals with prior criminal convictions to employment, licensing, and public housing. Unemployment and homelessness increase the likelihood that an individual will offend again. Reducing the hurdles to employment and housing, in the right circumstances, will only benefit society by giving these individuals the ability to support themselves and reintegrate themselves into society. When an offender has demonstrated that he or she is deserving of a second chance, we should all take a stand in support of giving them a hand up. This is one small change that can be made to our existing laws to help Connecticut citizens in these situations to move forward.

Please contact me if you have any questions regarding our position on these bills. Thank you.

Sincerely,



John T. Walkley
President - CCDLA
203-882-8214



State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER
30 TRINITY STREET - 4th Floor
HARTFORD, CONNECTICUT 06106

DEBORAH DEL PRETE SULLIVAN
LEGAL COUNSEL, DIRECTOR
(860) 509-6405 Telephone
(860) 509-6495 Fax
deborah.d.sullivan@jud.ct.gov

Deborah Del Prete Sullivan
Legal Counsel, Director
Office of Chief Public Defender

Judiciary Committee Public Hearing - March 3, 2014

***R.B. 153, An Act Concerning the
Recommendations of the Connecticut Sentencing Commission
With Respect to Certificates of Rehabilitation***

The Office of Chief Public Defender supports R.B. 153, An Act Concerning the Recommendations of the Connecticut Sentencing Commission With Respect to Certificates of Rehabilitation. Susan Storey, Chief Public Defender, is a member of the Connecticut Sentencing Commission and supported this proposal throughout the discussions which have led up to this proposal. The Raised Bill permits the Board of Pardons and Paroles to issue a Certificate of Rehabilitation to assist persons in gaining employment or licensure upon re-entry into the community after incarceration.

Passage of this bill which would provide for relief from barriers or forfeitures to employment or obtainment of a license is necessary to assist individuals in seeking and retaining employment once released from incarceration and under probation or parole supervision. Among other criteria, the Board must be satisfied that the granting of the certificate is consistent with the safety of the victim of the offense. The certificate is temporary while the individual is on probation or parole and is revocable. Once the individual has completed serving his/her sentence of incarceration, probation or parole, the certificate becomes permanent.

Page 2 of 2 Judiciary Committee Public Hearing - March 3, 2014
R.B. 153 - An Act Concerning the Recommendations of the Connecticut
Sentencing Commission With respect to Certificates of Rehabilitation
Testimony - Deborah Del Prete Sullivan, Legal Counsel, Director, Office of Chief
Public Defender

The bill also permits the Court Support Services Division of the Judicial Branch to issue a certificate of rehabilitation to an eligible offender under its supervision. Lastly, Section 4 of the bill requires the Connecticut Sentencing Commission to evaluate the effectiveness of provisional pardons and certificates of rehabilitation for 3 years from October 1, 2015 and issue its report and any recommendations it may have to "promote public policy and public interest".

The bill prohibits the denial of employment to or discharge from employment of anyone based solely on a conviction for which the individual has a certificate of rehabilitation. Under the bill, the state and its agencies are required to give consideration to anyone with a provisional pardon or certificate of rehabilitation which shall establish a "presumption" that the individual is rehabilitated. If the state or any of its agencies are denied employment based upon a prior conviction in circumstances where the person had a provisional pardon or certificate, a written statement must be provided to the applicant as to why. Lastly, the bill provides a rebuttable presumption against evidence of a prior conviction being admitted in certain employment actions.

The Office of Chief Public Defender requests that this Committee vote favorably on this bill.