

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 455

Short Title: Amend Certificate of Relief. (Public)

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

Referred to: Rules and Operations of the Senate

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE AVAILABILITY OF CERTIFICATES OF RELIEF TO
CERTAIN OFFENDERS.

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) ~~Twelve~~ If the individual has been convicted of five or fewer eligible offenses, 12 months have passed since the individual has completed his or her sentence. If the individual has been convicted of more than five eligible offenses, 36 months have passed since the individual has completed his or her sentence. For purposes of this subdivision, an individual has not completed his or her sentence until the individual has served all of the active time, if any, imposed for each offense and has also completed any period of probation, post-release supervision, and parole related to the offense that is required by State law or court order.
- (2) The individual is engaged in, or seeking to engage in, a lawful occupation or activity, including employment, training, education, or rehabilitative programs, or the individual otherwise has a lawful source of support.



* S 4 5 5 - V - 1 *

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

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

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

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

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

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

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

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