

# **Positive Credentials That Limit Risk: A Report on Certificates of Relief**

**June 2024**

**By Margaret Love**



## COLLATERAL CONSEQUENCES RESOURCE CENTER

The Collateral Consequences Resource Center is a non-profit organization established in 2014 to promote public engagement on the myriad issues raised by the collateral consequences of arrest or conviction. Collateral consequences are the legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed. The Center provides news and commentary about this dynamic area of the law, and a variety of research and practice materials aimed at legal and policy advocates, courts, scholars, lawmakers, and those most directly affected by criminal justice involvement.

Through our Restoration of Rights Project (RRP) we describe and analyze the various laws and practices relating to restoration of rights and criminal record relief in each U.S. jurisdiction. In addition to these state-by-state profiles, a series of 50-state comparison charts and periodic reports on new enactments make it possible to see national patterns and emerging trends in formal efforts to mitigate the adverse impact of a criminal record. We consult in support of state law reform efforts and have prepared studies of access barriers to record clearing, including monetary barriers and eligibility waiting periods. In addition, we participate in court cases challenging specific collateral consequences, and engage with social media and journalists on these issues. For more information, visit the CCRC website at <http://ccresourcecenter.org>.

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<b>Executive Summary .....</b>	<b>2</b>
<b>Introduction .....</b>	<b>3</b>
<b>I. Structure of Certificate Relief.....</b>	<b>6</b>
<b>Map of Judicial and Correctional Certificates of Relief.....</b>	<b>8</b>
<b>II. Eligibility for Certificate Relief.....</b>	<b>9</b>
<b>III. Effect of Certificate Relief.....</b>	<b>10</b>
<b>IV. Considerations Affecting Take-up Rate for Certificates .....</b>	<b>13</b>
<b>V. Policy and Research Recommendations.....</b>	<b>15</b>
<b>Appendix I: Comparison Charts.....</b>	<b>18</b>
<b>Chart #1 - Judicial Certificates .....</b>	<b>18</b>
<b>Chart #2 - Correctional Certificates.....</b>	<b>22</b>
<b>Appendix II: State Law Summaries.....</b>	<b>25</b>

## EXECUTIVE SUMMARY

This report deals with a form of relief from the collateral consequences of a criminal conviction that is less far-reaching than expungement or other forms of record clearing, but is potentially available to more people at an earlier point in time. These so-called “certificates of relief” do not limit public access to a person’s record, but they may be effective in reducing many conviction-related disadvantages in the workplace, including by providing employers and others with protection against the risk of being sued for negligence.

At least as long as expungement and sealing remain unavailable to many people with a felony conviction record, or are available only after lengthy waiting periods, certificates of relief can provide an important addition to a state’s reentry scheme, and serve as a bridge to more thorough forms of record relief like expungement. We believe that, rather than competing as alternative forms of relief, certificates and expungement can operate as complementary parts of a structured system of serially available criminal record relief.

Yet it appears that certificates have been largely ignored in many states by courts that are empowered to dispense them, as well as by the advocacy community whose clients might benefit from them. State court systems have failed to collect, track, or aggregate basic data like the number of certificate applications, grants, and denials, a failure that makes it almost impossible to evaluate a certificate’s effectiveness in a given state.

At the same time, in a promising development, certificates are being used by prison and parole agencies to facilitate reentry for those exiting prison or completing supervision.

Given the perceived limits of record clearing as a comprehensive reentry strategy, social science researchers have become interested in studying the effect of laws that aim to increase the positive information about individuals with a criminal record to counter the negative effect of the record itself. This report is intended to support these research efforts by describing the state of the law relating to certificates of relief in the 21 states that now offer them. A follow-up study will look at the state of executive pardoning.

We hope this report will stimulate public interest in a type of relief that has been neglected in favor of expungement as background screening has become widespread.

As specific state certificate programs are referenced in the body of this Report, readers may wish to refer to the comparison charts in Appendix I (p. 18) and the more detailed state-specific summaries of the law in Appendix II (p. 25). Certificates can be seen in the broader context of a state’s other record relief mechanisms (such as pardon and expungement) by referring to the state-by-state profiles from CCRC’s [Restoration of Rights Project](#).

## INTRODUCTION

In the past decade researchers and policymakers have explored different strategies to improve reentry outcomes for justice-impacted individuals, aiming to deter future crime and contribute to the economic development of underserved communities. As one researcher has pointed out, the “most obvious way to do this is to increase legal employment and earnings.”<sup>1</sup> Yet many employers have been stubbornly resistant to making fact-based decisions on hiring people with a criminal history, concerned as much about legal liability and reputational harm as about work-readiness.<sup>2</sup>

To address employer concerns about liability that have slowed fair chance hiring initiatives, advocates for the justice-impacted have prioritized expansion of record clearing through sealing and expungement. But most states limit record clearing to less serious convictions, with lengthy waiting periods and complex procedural requirements that discourage record relief even for those who are eligible.<sup>3</sup> A few states have automated record clearing, but at present automation remains technologically challenging. These limits on record clearing tend to disfavor the justice-impacted in underserved communities, where convictions tend to be more serious and assistance from lawyers less readily available.<sup>4</sup> In addition, there is some evidence that limiting information about criminal records has encouraged racial stereotyping in the workplace, swapping one societal harm for another.<sup>5</sup>

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<sup>1</sup> See Jennifer Doleac, *Encouraging desistance from crime*, 61 J. Economic Literature 383 (2023), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3825106](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3825106), at 23.

<sup>2</sup> Doleac, *supra* note 1 at 30. While research indicates that employer concerns about liability are overblown in light of the infrequency of successful lawsuits, see, e.g., Lewis Maltby & Roberta Meyers Douglas, *Second Chance Employment: Addressing Concerns About Negligent Hiring Liability*, Legal Action Center and National Workrights Institute (July 2023), a study in the District of Columbia showed that more than 50% of employers would “significantly increase” their hiring of workers with a criminal history if the District adopted legal liability protection and certificates of rehabilitation alongside industry-specific skill training. See, e.g., Council for Ct. Excellence, *Unlocking Employment Opportunity for Previously Incarcerated Persons in the District of Columbia* (13) (2011).

<sup>3</sup> See Restoration of Rights Project, *50-State Comparison: Expungement, Sealing & Other Record Relief*. Only a handful of states have authorized automatic relief for any felony convictions, and only two states to date (Michigan and Connecticut) have made an automatic record-clearing system operational for felonies.

<sup>4</sup> See, e.g., Sonja B. Starr & M. Marit Rehavi. (2013). *Mandatory sentencing and racial disparity: Assessing the role of prosecutors and the effects of Booker*, 123 Yale L. J. 1 (2013).

<sup>5</sup> See, e.g., Jennifer Doleac & Sarah Lageson, *The Problem with ‘Clean Slate’ policies: Could broader sealing of criminal records hurt more people than it helps?*, Niskanen Center (Aug. 31, 2020) (expressing concern that “record-sealing could increase discrimination based on race when criminal records are not visible”); see also Jennifer Doleac and Benjamin Hansen, *The Unintended Consequences of “Ban the Box”: Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden*, 38 Journal of Labor Economics 321 (2020).

**Social science researchers have become interested in studying laws that increase the positive information about an individual with a criminal record.**

Given the perceived limits of record clearing as a comprehensive reentry strategy, social science researchers have become interested in studying the effect of laws that increase the positive information about an individual with a criminal record to counter the negative effect of the record itself, to determine whether these laws may improve hiring outcomes and otherwise reduce recidivism.<sup>6</sup> Limits on employer liability are a related area of research interest: “Interventions that provide clarity about who is a legal risk and who is not, or that shift the risk from employers

to government or non-profits, may be particularly effective at increasing employment opportunities for this group.”<sup>7</sup>

To support these research efforts, we surveyed the laws in U.S. jurisdictions that aim to improve workplace opportunities for justice-impacted individuals by providing them with positive credentials. While executive pardon remains the archetypal positive credential in this realm, 21 states now also authorize their courts or correctional agencies to issue post-sentence orders or certificates that carry out at least some of the forgiving or dispensing functions traditionally associated with pardon. These statutory relief measures are variously described by their enacting states, but they are collectively described in this report as “certificates of relief.”

As the comparison charts and state-by-state summaries of the law in the appendices show, certificates of relief vary from state to state in their scope and effect, but most certificates are available to more people at an earlier time than record clearing relief like expungement or sealing. All of the certificates that are the subject of this report have some legal effect, either reducing legal restrictions on opportunities in the workplace or limiting employer risk of negligence liability, and many do both.<sup>8</sup> To the extent certificates increase employment opportunities for the justice-impacted, they perform a valuable function in reducing recidivism.

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<sup>6</sup> See Doleac & Lageson, *supra* note 5 (recommending development of “systems to *increase* the information available to employers about individuals’ rehabilitation and job-readiness (for instance, court-issued rehabilitation certificates)),” (emphasis in original); Megan Denver, *Criminal Records, Positive Credentials and Recidivism: Incorporating Evidence of Rehabilitation Into Criminal Background Check Employment Decisions*, 66 *Crime & Delinquency* 2 (2019) (noting that “state-issued certificates are also a promising potential [desistance] signal for individuals with criminal records”).

<sup>7</sup> Doleac, *supra* note 1 at 30.

<sup>8</sup> The 21 states whose laws are the subject of this report do not include two states and the District of Columbia whose correctional agencies are authorized by statute to issue certificates signifying completion of prison programming but have no legal effect.

There is some variety in how certificate programs are structured and operate. For reasons that will become clear, we analyze the certificates issued by courts in 14 states separately from the certificates issued by prison and parole agencies in 10 states.<sup>9</sup> Judicial certificates are administered on a decentralized basis by state and local courts, and it appears that little or no data is available about the frequency of this relief. Indeed, beyond the absence of record-keeping for judicial certificates, in most states that offer court-issued certificates this relief is as unfamiliar to those responsible for keeping track of court actions (including statewide records repositories and court administrators) as they are to their intended beneficiaries. In addition, many justice-impacted individuals and their advocates appear to doubt the efficacy of court-ordered relief that does not limit access to the record, which further limits their popularity. The result of this convergent disinterest is to severely depress the rate at which judicial certificates are sought by those eligible for them (the so-called “take-up rate”) in most of the states that offer them.

In contrast, certificate programs administered by state correctional agencies are centralized, and we were able to obtain hard data on the frequency of grants for most of the correctional agencies in our study that show how these certificates are being utilized. Unlike court-issued certificates, certificate programs administered by state prison and parole agencies can be analyzed to show their effectiveness in facilitating reentry, thanks to strong official

**There has been little attention paid to how this relatively modest record remedy might fit into the general plan of a reentry system.**

support, objective eligibility criteria and broad distribution to an audience that is literally captive, and just enough legal effect to appeal to employers concerned about limiting their risk.

Still, overall, there has been little attention paid in any of the 21 certificate states to how this relatively modest record remedy might fit into the general plan of a reentry system leading to more complete relief through expungement or pardon.

We hope that the report will shed light not only on the attributes of certificate programs in the states that offer them, but also raise questions about why certificate programs are neglected in many states but appear to be thriving in others. We recognize that further research is necessary into how certificate programs actually operate and how they benefit their intended recipients and the public.

The discussion that follows is organized into the following categories: 1) structure of certificate relief; 2) eligibility for certificate relief; 3) effect of certificate relief; and 4) factors influencing the take-up rate for certificates. We close with a set of policy recommendations on how certificates of relief can be made appealing to the justice-

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<sup>9</sup> In New Jersey, New York, and Ohio, certificates are issued by both courts and correctional agencies, so they are counted in both categories.

impacted short of sealing the record, how they can reach more of their intended beneficiaries more efficiently, and how they can be better integrated into a jurisdiction's overall reintegration strategy.

The report is supplemented by two appendices that compare and summarize the certificate laws in each of the 21 states that offer them. A map illustrating which states offer which types of certificates, with links to the detailed description of state certificate laws in Appendix II, is included at the end of the following section (p.8). A link to the Comparison Charts of Appendix I is also included there. CCRC's [Restoration of Rights Project](#) also includes a 50-state comparison chart of certificates of relief, and this chart in turn provides access to a state's other record relief mechanisms.

## I. STRUCTURE OF CERTIFICATE RELIEF

The certificate relief that is the subject of this report is not new. It has coexisted and sometimes competed with record-clearing remedies like expungement for more than half a century, since it was introduced by the drafters of the Model Penal Code (MPC) in 1962 as a way of alleviating collateral consequences through timely and efficient action of the sentencing court.<sup>10</sup> Today, in all but three of the 21 states that offer them, certificates of relief are available from a court or correctional agency as an integral part of the criminal case, much like record clearing in the form of expungement or sealing, except that more convicted people are eligible for certificates at an earlier point in time, frequently while the criminal case is still ongoing.

Eleven of the 14 states whose courts offer certificates follow the basic MPC model of making relief available as part of the criminal case. In Colorado, Illinois, Louisiana, New Jersey, New Mexico, New York, and Vermont, the sentencing court may grant certificate

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<sup>10</sup> See Margaret Love, [Starting Over with a Clean Slate: In Praise of a Forgotten Section of the Model Penal Code](#), 30 Fordham Urb. L.J. 1705, 1713-1715 (2003). Judicial authority to deal with the after-effects of conviction was incorporated into the MPC by the American Law Institute (ALI) as a more reliable relief mechanism than either the venerable but capricious executive pardon, or the record-sealing that had been proposed a few years before by the National Council on Crime and Delinquency. Set-aside laws were adopted in more than a dozen states in the two decades after adoption of the MPC, and they have remained the mainstay of post-conviction relief in many states to this day – in recent years frequently coupled with sealing of the record. See profiles of California, Michigan, New Hampshire, and Washington from the Restoration of Rights Project, <https://ccresourcecenter.org/restoration-2/>. A half century after the reforms of the 1960s, the Uniform Law Commission and the ALI again proposed transparent forms of judicial relief from collateral consequences that are tied closely to the criminal case, giving the sentencing court authority to reduce specific restrictions to facilitate reentry, and to grant more thorough relief signifying rehabilitation after a short post-sentence waiting period. See Margaret Love, [Managing Collateral Consequences in the Sentencing Process: The Revised Sentencing Articles of the Model Penal Code](#), 2015 Wis. L. Rev. 247 (2015).



relief as an integral part of the sentencing process, while defendants in Arizona, North Carolina, Tennessee, and Washington may apply once the sentence has been served. This direct connection with the criminal case is absent in Alabama, California, and Ohio, where judicial certificates of relief are dispensed by a civil court.

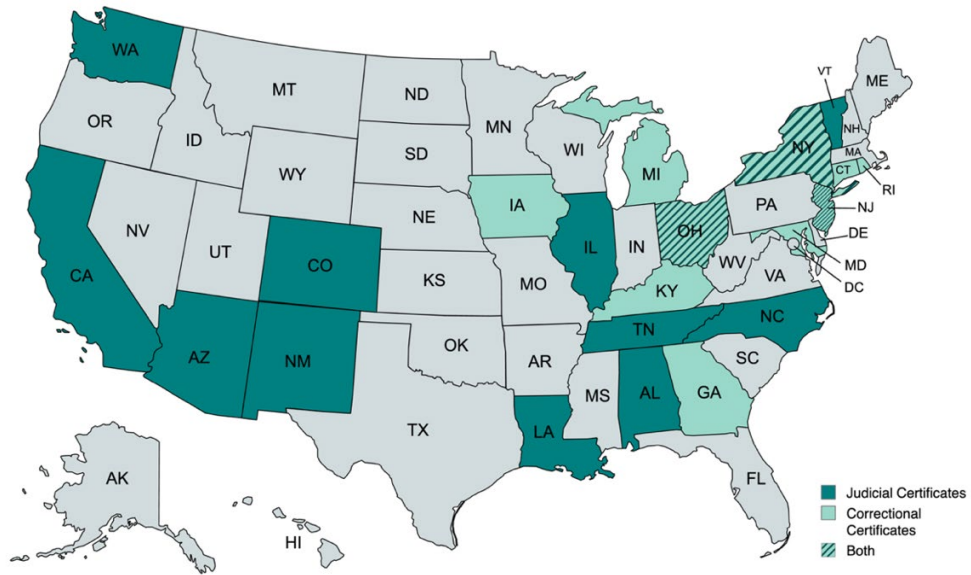
In recent years certificate relief has been imported into the correctional systems of a number of states. Certificates are closely tied to the progress of the criminal case in all 10 of the states where correctional officials are responsible for determining eligibility for and issuing certificates of relief to those leaving prison or completing supervision. In Georgia, Iowa, Kentucky, Michigan, and Ohio, prison officials are authorized to grant certificates to those exiting prison who have completed certain work-readiness programming and stayed out of major disciplinary trouble while incarcerated, and of these five states only Ohio requires eligible individuals to apply. Georgia's Department of Community Supervision also has authority to grant certificates of relief to those not sentenced to prison who complete a probation term. In Connecticut, Maryland, New Jersey, New York, and Rhode Island, the paroling authority is responsible for granting certificates to those who have completed supervision, though of these five states only New York's Parole Board now makes relief automatic for those eligible.

Certificates of relief and record clearing can be seen as complementary parts of a single structured system of serially available record relief.

Their strong connection with the criminal case suggests a way to see certificates of relief and record clearing as complementary parts of a single structured system of serially available record relief, progressing from limited relief to facilitate reentry to complete restoration of rights and status to achieve reintegration. However, to date little thought has been given to this idea of an integrated relief system, and record-clearing and certificates have proceeded along independent tracks

without much thought given to their relationship. We will return to this argument in the final section of this report.

# MAP OF JUDICIAL AND CORRECTIONAL CERTIFICATES OF RELIEF



Links to Summaries of State Certificate Laws in Appendix II

 Judicial	 Correctional Certificates	 Both
<a href="#">Alabama</a>	<a href="#">Connecticut</a>	<a href="#">New Jersey</a>
<a href="#">Arizona</a>	<a href="#">Georgia</a>	<a href="#">New York</a>
<a href="#">California</a>	<a href="#">Iowa</a>	<a href="#">Ohio</a>
<a href="#">Illinois</a>	<a href="#">Maryland</a>	
<a href="#">Louisiana</a>	<a href="#">Michigan</a>	
<a href="#">New Mexico</a>	<a href="#">Rhode Island</a>	
<a href="#">North Carolina</a>	<a href="#">Kentucky</a>	
<a href="#">Tennessee</a>		
<a href="#">Vermont</a>		
<a href="#">Washington</a>		

[Click for Appendix I: Comparison Charts for Judicial and Correctional Certificates](#)

## II. ELIGIBILITY FOR CERTIFICATE RELIEF

In most of the states that offer certificates, eligibility is broader than for other forms of judicial record relief like sealing and expungement, and is closely tied to the progress of the criminal case. In seven of the 14 judicial certificate states, relief is available at sentencing for those eligible, while in another four states most people are eligible to apply for a certificate upon completion of sentence or after a brief waiting period. Two of those four states (Arizona and Washington) require a waiting period following completion of sentence which may be as long as five years depending on the seriousness of the offense. Ohio and California, which separate certificate relief from the criminal case, also require a waiting period – three years for a felony in Ohio and as long as 10 years in California.

**Most certificates are available to more people at an earlier time than record clearing relief like expungement or sealing.**

Eight states allow people with federal and out-of-state convictions to apply for certificates, curiously including six states that tie relief closely to the criminal case (Connecticut, Illinois, New Mexico, New York, Rhode Island, Vermont). The other two states are Alabama and Tennessee.

In most certificate states, eligibility extends to all but those convicted of serious violence or registrable sexual offenses. Alabama, New Mexico, Ohio, and Tennessee allow individuals convicted of any offense to apply for their certificates, and in California eligibility extends to any felony or misdemeanor sex offense. On the other end of the spectrum, Vermont excludes 33 of the state's most common offenses from its two certificates, while North Carolina confines certificate relief to those convicted of misdemeanors and Class H or I felonies. Occupying a middle ground, Arizona, Colorado, Illinois, and Louisiana exclude from eligibility individuals convicted of crimes involving serious violence and sex offenses, and Washington makes its certificates available only to individuals who have not been convicted at any time of a Class A felony, certain sex offenses, and a handful of other serious felonies. Eligibility is limited to a single felony for Arizona's Certificate of Second Chance, New Jersey's Certificate of Rehabilitation, and New York's Certificate of Relief from Disabilities. Vermont has the most restrictive eligibility criteria of all, excluding many common crimes (including drug trafficking) and many consequences.

While relief is discretionary with the court in every state save Washington, and several states require a hearing in which defendants must make their case for relief, statutory eligibility standards set a fairly low bar in most states, frequently requiring that the court find only that the person needs the relief to facilitate their reentry or reintegration, and that it would be consistent with the public interest and pose no safety risk. Tennessee seems to be an exception, requiring the court to find, after a hearing in which the district attorney is

invited to participate, that the petitioner “has sustained the character of a person of honesty, respectability, and veracity and is generally esteemed as such by the petitioner’s neighbors.”<sup>11</sup>

In contrast, the eligibility requirements for certificates issued by correctional agencies are significantly more uniform and rely on objective criteria, and many are issued automatically upon release from incarceration or completion of supervision. Georgia, Iowa, Kentucky, and Michigan all require prison officials to identify eligible individuals and issue certificates to them upon release, with eligibility contingent on easily determined criteria (e.g., having a clean disciplinary record and completing either vocational or educational programming). Likewise, New York’s corrections department has largely automated issuing a Certificate of Relief from Disabilities (CRD) to prisoners completing supervision following similar objective eligibility criteria, though the agency requires a petition for its Certificate of Good Conduct (CGC). For both certificates, New York retains discretionary authority to deny relief if certification “would be inconsistent with the public interest and the rehabilitation of the incarcerated individual.” Georgia, Iowa, and New York also exclude a select number of offenses from obtaining a certificate.

**Many correctional certificates are provided automatically to those exiting prison or completing supervision.**

Eligibility varies somewhat in certificate programs administered by parole boards that require a petition. Individuals are eligible to apply for a certificate while still under agency supervision in Connecticut, New Jersey, and New York (CGC), following a waiting period that ranges from 90 days in Connecticut to five years in New Jersey and New York.

### **III. EFFECT OF CERTIFICATE RELIEF**

Certificates of relief have two primary legal effects related to increasing workplace opportunities for the justice-impacted: 1) They reduce legal barriers to occupational licensure based on criminal history; and 2) They limit employer liability in case the person commits another crime or otherwise provokes a suit based on negligence. In a few states certificates also reduce employment barriers and extend negligence defenses to landlords and others who transact business with a certificate holder. The effects of specific certificates are described in detail in Appendix II, and are summarized here.

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<sup>11</sup> Tenn. Code Ann. § 40-29-107(i)(1), and Appendix II.

**Certificates lower licensing barriers in 18 of the 21 certificate states and limit employer liability in 14 states.**

Certificates of relief operate to ease the process of licensure in 18 of the 21 certificate states, a particularly important benefit since licensing affects almost one-fifth of the nation’s workforce and often carries an earnings premium. Given that more than 40 states have enacted licensing reforms in recent years,<sup>12</sup> the state-by-state descriptions in Appendix II show how certificates can provide additional relief over and above those more general reforms.

At a minimum, all but one of the 16 judicial certificates (two each in Illinois and Vermont) potentially convert many mandatory licensing restrictions into discretionary ones, and some states go further to require that certificates be given weight in a discretionary decision-making process. For example, Ohio’s Certificate of Qualification for Employment creates a “rebuttable presumption that the person’s criminal convictions are insufficient evidence that the person is unfit for the license, employment opportunity, or certification in question.” Certificates in New Jersey and New York have a similar weighty influence in connection with discretionary decision-making by licensing boards. Licensing boards are outright barred from denying licensure to an otherwise qualified person with a certificate in Arizona, California, Colorado, New Jersey, and Washington.<sup>13</sup> Louisiana’s “Certificate of Employability” has no effect on licensing, although a strong general licensing law enacted in 2022 carries much of this weight.<sup>14</sup>

With the exception of the two certificates offered by New York’s DOCCS, correctional certificates are significantly less robust in their legal effect on licensing than certificates issued by a court. Three correctional certificates—Iowa, Michigan, and Rhode Island—merely require licensing agencies to consider a certificate as evidence of rehabilitation or good moral character. Connecticut’s Certificate of Employability creates a presumption of rehabilitation in favor of the holder when applying for a license, but only Maryland’s Certificate of Rehabilitation rivals New York’s powerful certificates in eliminating some mandatory disqualifications. The certificate programs administered by prison authorities in Georgia and Kentucky have no direct legal effect on occupational licensing laws, but rely on limitations on employer liability to encourage hiring.

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<sup>12</sup> See Margaret Love, *The Many Roads From Reentry to Reintegration*, Collateral Consequences Res. Ctr., March 2022 at 114; see also CCRC’s *Advancing Second Chances in 2023: Annual Report on Clean Slate and Other Record Reforms* at 6.

<sup>13</sup> Even with a court-issued certificate, licenses to work in certain sensitive occupations may be unaffected. For example, Tennessee’s certificate has no effect on licensure in banking, education, finance, health care, insurance, and mental health. In Washington, nearly 20 different occupations are unaffected by its Certificate of Restoration of Opportunity, including accountants, nurses, and realtors.

<sup>14</sup> See La. Rev. Stat. § 37:31 through 36, described in detail in the Louisiana profile of the Restoration of Rights Project.

The second most frequent benefit provided by certificates, found in 14 of the 21 states that offer this relief, is a defense to negligent hiring claims brought against employers.<sup>15</sup> As with occupational licensing restrictions, certificates issued by courts tend to offer a more robust level of protection than certificates issued by corrections agencies, though the difference here is less pronounced. Six judicial certificates (Illinois, Louisiana, North Carolina, Ohio, Tennessee, and Washington) and one correctional certificate (Michigan) provide employers absolute immunity against negligent hiring claims based on conviction, though several of these states add a requirement that the employer must have known of the certificate at the time of hiring. Three states (Connecticut, Georgia, and New York) create a presumption against liability for employers who hire someone with a certificate, while four other states (Kentucky, New Mexico, Ohio, and Vermont) allow introduction of a certificate as evidence of an employer’s due care. In addition, eight states (five judicial certificates and three correctional certificates) further protect against negligence claims brought against housing providers, and a few states extend protection to schools and anyone else who transacts business or engages in activity with the certificate holder.<sup>16</sup>

**In 7 states  
certificates provide  
absolute immunity  
from suit based on  
negligence.**

The states whose certificates of relief provide no specific protection against liability are Alabama, California, Colorado, Iowa, Maryland, New Jersey, and Rhode Island. Of these states, Colorado and Iowa provide independent statutory protection against liability. Arizona, Louisiana, and New York also provide independent negligent hiring protection which their certificates enhance.

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<sup>15</sup> Judicial certificates in 10 states limit liability for negligent hiring (Arizona, Illinois, Louisiana, New Mexico, New York, North Carolina, Ohio, Tennessee, Vermont, and Washington), while correctional certificates do so in six (Connecticut, Georgia, Kentucky, Michigan, New York, and Ohio). (Note New York and Ohio appear in both categories.) Certificates offered by Alabama, California, Colorado, Iowa, Maryland, New Jersey, and Rhode Island offer no specific protection against negligent hiring suits, but of these states Colorado and Iowa have freestanding statutory negligent hiring protection. *See also* Council of State Governments, [Limiting Employer Liability: Addressing the Perceived Risk of Hiring Workers with Criminal Histories](#) (March 2023)(identifying 11 states that limit risk of liability through judicial or correctional certificates).

<sup>16</sup> The states with the broadest negligence protections are Georgia, Kentucky, and Michigan for their correctional certificates, and New Mexico and North Carolina for their judicial certificates. Judicial certificates in Arizona, Vermont, and Washington extend protections to housing providers as well as employers. See Appendix for details and citations.

## IV. CONSIDERATIONS AFFECTING “TAKE-UP RATE” FOR CERTIFICATES

What information we have suggests that certificates ought to be an attractive alternative or interim remedy for justice-impacted individuals to reduce collateral consequences and improve workplace opportunities, but in many states they are not. They ought also to be

**Ease of access to certificates should increase take-up rates, but this may not be the case where responsible officials are uninformed about their benefits.**

attractive to policymakers and justice system administrators interested in reducing recidivism rates. Yet judging from the little data we have on judicial certificates, as detailed in the Appendices, very few of those eligible for certificate relief are actually applying for and receiving it. The reasons for this low “take-up rate” are varied.

Procedures for obtaining certificates vary widely in the 21 states that offer them, but there are several noteworthy process considerations that make certificates more accessible than other forms of record relief, and some certificates more accessible than others. Where certificates are made available at a stage in the criminal process where

the burdens of application can be minimized (e.g., when a person is already physically present in court at sentencing, or a captive audience in prison or under supervision) individuals should have an incentive to qualify for and receive relief that is not present where burdensome administrative procedures, including a return to court, are involved.<sup>17</sup>

At the same time, ease of access may not appreciably increase take-up rates where officials are uninformed about the benefits of certificates (as appears to be the case in many states for judicial certificates) and potential beneficiaries are not otherwise encouraged to apply.

While seven of the 14 judicial certificate states authorize relief as early as sentencing (Colorado, Illinois, Louisiana, New Jersey, New Mexico, New York, and Vermont), it is hard to know whether eligible individuals are applying for and obtaining relief since none of the seven states appear to track or docket issuance of certificates by their courts. Thus, we have no way of knowing exactly how many people ask for this relief, much less how many receive it. Of the seven other judicial certificate states, the various burdens associated with filing a petition or returning to court for a hearing appear to present a significant deterrent. This is the case for the only three states for which we have any data (Alabama, Ohio, and Washington), and we can presume it for the ones we don’t. Only Ohio’s courts

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<sup>17</sup> See Cara Suvall, [Certifying Second Chances](#), 42 Cardozo Law Review 1175, 1213-1231 (2021) for an extensive discussion of the administrative burdens that discourage applications for judicial certificates of relief. The deterrent effect on applicants of administrative burdens like court hearings, document production, and filing fees, has been empirically demonstrated in the record-clearing context. See J.J. Prescott and Sonja B. Starr, [Expungement of Criminal Convictions: An Empirical Study](#), 133 Harv. L. Rev. 2460 (2020).

grant a measurable number of Certificates of Qualification for Employment (CEQ) each year, and the numbers for that state (fewer than 200 annually) are much lower than one would expect given centralized administrative efforts, the relatively low number of denials compared to grants, the restrictive eligibility criteria for sealing in Ohio even after that state expanded eligibility in 2022, and the substantial workplace benefits the CEQ provides.

But burdensome administrative requirements are not the only deterrent to increased take-up rates. Alec Ewald found that few people applied to the sentencing court for New York’s Certificate of Relief from Disabilities and even fewer CRDs were granted because of official objections from the judge or the probation officer. Ewald relied for his findings on interviews with judges and probation officers because no centralized record of certificate applications and grants existed.<sup>18</sup>

**Burdensome application procedures are not the only reason why take-up rates for judicial certificates are low.**

In her study of Tennessee’s certificate process, Cara Suvall found multiple reasons why the process for obtaining that state’s Certificate of Employability was “very rarely used,” a disuse evidenced by widespread unfamiliarity with the certificate among court personnel throughout the state.<sup>19</sup>

Official unfamiliarity may be an independent reason why certificates are rarely sought. This seems to be one of the conclusions reached by Liz Chadwick, a student researcher who interviewed court staff, state records personnel, and advocates in six states where judicial certificates are offered (Arizona, California, Illinois, Ohio, Vermont, and Washington). As her contributions to the state summaries in Appendix II reveal, Chadwick found that eligible individuals in these six states were deterred from seeking certificates by strict eligibility and procedural requirements, a preference for record-concealing remedies, and a “lack of awareness” of the certificate process on the part of court officials. She commented:

This lack of awareness and usage poses a significant problem for states trying to reintegrate ex-offenders. It also brings up questions about why some certificates,

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<sup>18</sup> Ewald found, after conducting interviews with 21 county and city court judges and 23 county probation officers, that “in most New York courts, sentencing grants appear to be extremely rare,” with judges and probation officers often objecting outright, while “it appears that in most counties, fewer than 5 percent of people sentenced in a typical year are seeking certificates.” Alec Ewald, *Rights Restoration and the Entanglement of US Criminal and Civil Law: A Study of New York’s “Certificates of Relief*. 41 Law & Social Inquiry 12-15 (2016).

<sup>19</sup> Suvall, *supra* note 17 at 1200. Suvall also noted the burdensome application process, which is detailed in Appendix II.



which seem so potent in the text of the law, are hardly even heard of among those tasked with implementing them.<sup>20</sup>

**The take-up rate for correctional certificates is low where an application is required.**

We have better information by which to assess the deterrent effect of burdensome application procedures on take-up rates in the 10 states whose correctional agencies offer certificates. Data from the five states where prison or parole authorities issue certificates automatically to eligible individuals upon their release from prison or completion of supervision (Georgia, Iowa, Kentucky, New York, and Michigan) show a high number of grants. Indeed, Georgia reports granting a certificate to almost half the population exiting prison. In contrast, the take-up rate for correctional certificates that require application after completion of supervision (Connecticut, Maryland, New Jersey, Ohio, and Rhode Island) is very low. These agencies would do well to heed the example of Iowa’s correctional officials, who converted to an automatic system after several years of low take-up. See Appendix II.

## V. POLICY AND RESEARCH RECOMMENDATIONS

### 1. Policy recommendations:

- a. **Integrate certificates into a structured system of relief:** Policy advocates should consider whether certificates of relief and record clearing should be supported and advertised by state officials as complementary parts of a single structured system of serially available record relief, progressing from the more limited certificate relief afforded upon release from prison or completion of supervision, to the more complete restoration of rights through pardon or expungement. To date little thought has been given to this idea of an integrated progressive relief system, and record clearing and certificates have proceeded along independent tracks without much thought given to their relationship.
- b. **Increase official awareness of and support for judicial certificate relief:** States that have enacted judicial certificates of relief should canvass those responsible for administering the system to determine the causes of the knowledge gap observed by Liz Chadwick and Cara Suvall, and consider

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<sup>20</sup> Liz Chadwick, “I Mean, It’s a Nice Idea”: *Exploring States’ Certificate-Based Remedies for the Collateral Consequences of Criminal Convictions*, Thesis submitted in April 2023 in satisfaction of the requirements of the Honors Program, Department of Political Science, University of Vermont. Chadwick’s conclusions for the six states she studied are included as part of the relevant state summary in Appendix II.

how to address it. They may benefit from consulting officials in states whose correctional officials appear enthusiastic about their automatic certificate programs.

- c. **Improve the attractiveness of certificates to employers and others, and to the justice-impacted and their advocates:** Policymakers should consider what changes could be made in certificate programs to improve their attractiveness to employers and landlords. They should also consider how to appeal to justice-impacted individuals and their advocates, including by making certificates an attractive preparatory step to more complete record relief like pardon or expungement.
- d. **Lower eligibility barriers to judicial certificate relief:** We recommend that policymakers give more thought to the trade-off between lowering access barriers to make certificate relief more widely available, on the one hand, and providing more robust and thorough individualized relief, on the other. Certificates ought to be viewed as a first-line relief mechanism, with more demanding criteria reserved for later-stage relief. Correctional certificates in several states appear to appreciate and incorporate this principle. Many states that have certificates make them potentially available to anyone, and there seems to be no reason to permanently exclude from eligibility persons convicted of offenses involving violence (a very broad category in most jurisdictions) or sexual misconduct (ditto).
- e. **Lessen procedural requirements for judicial certificates:** States should authorize limited judicial certificate relief at sentencing and more thorough relief upon completion of sentence. Courts that issue certificates post-sentence should consider a more efficient delivery system that would avoid burdensome document production, filing fees, and intimidating adversarial court hearings, much as the corrections agencies have done with their certificates. Given the low bar set in most states for qualifying for relief, there is no reason why the process of issuing certificates could not be made mandatory for those who are eligible, if not automatic. The popularity of certificates issued by corrections agencies compared to court-ordered relief suggests that making judicial certificates more easily available may enhance their value to a reentry strategy, as well as to individuals hoping eventually for more thorough relief.
- f. **Make correctional certificates more available automatically after satisfaction of objective eligibility criteria:** More states should adopt programs for issuance of certificates by correctional agencies, and states should convert existing petition-based certificate programs into automated programs like those administered by correctional authorities in Georgia,

Iowa, Kentucky, Michigan, and New York. We also recommend that these programs should be studied for their effects on recidivism, much as Kentucky is now doing. Finally, these certificates ought also to be made available to probationers, as Georgia has done with its certificate.

## **2. Data collection and research:**

- a. **Track and docket data on certificates:** Court administrators should track issuance of judicial certificates of relief, including those issued at sentencing, in the public docket of a criminal case. Correctional certificates should also be noted on individual rap sheets. Tracking and docketing benefit not only the recipients of relief but they also permit study of the effect of certificate relief.
- b. **Conduct empirical research on effect of certificates:** Researchers should undertake empirical research into the efficacy of certificates in encouraging hiring and/or licensure, and in reducing recidivism.
- c. **Study the effect of liability defenses:** Researchers should also survey the effect of extending protection against liability on hiring and renting, including by surveying employers and landlords.

## APPENDIX I: COMPARISON CHARTS

### Chart #1 – Judicial Certificates

State and Certificate	Eligibility	Effect	Frequency
<b>Alabama</b> Order of Limited Relief Ala. Code § 12-26-1 <i>et seq.</i>	Available from civil court in county where crime occurred for any offense with no waiting period, or for federal convictions where person resides.	Converts “some or all” mandatory licensing bars to discretionary disqualification	11 (2019-2024), or an average of 2 per year.
<b>Arizona</b> Certificate of Second Chance Ariz. Rev. Stat. § 13-905(A), (J)-(N)	Available from sentencing court after set-aside of conviction; No waiting period for misdemeanors, a single felony eligible 2-5 years after completion of sentence; violent and sexual offenses ineligible.	* Removes barriers to occupational licensure. * Limits liability for negligence in hiring and renting.	As of May 2023, no data collected on any certificates granted.
<b>California</b> Certificate of Rehabilitation Cal. Penal §§ 4852.01 through .06, 4852.19	Available from court of conviction or court in county of residence to any felony or misdemeanor sex offense 7-10 years after completion of sentence, including 5 years California residency; Assistance in applying from public defenders, probation, or parole officers.	* Prohibits denial of licenses based solely on conviction; converts mandatory bars to discretionary. * Certificate acts as application for pardon.	No centralized tracking of certificates; data may be available on county basis.
<b>Colorado</b> Order of Collateral Relief Colo. Rev. Stat. § 18-1.3-107	Available from court at sentencing or any time thereafter, excluding felonies involving violence or sexual offenses.	* Court may remove mandatory restrictions in licensure, employment, and housing, with exceptions. * Order prohibits denial of many licenses and public employment to certificate holders.	No data collection or centralized tracking.
<b>Illinois</b> Certificate of Relief from Disabilities 730 Ill. Comp. Stat. Ann. 5/5-5.5-5 <i>et seq.</i>	Available from court at sentencing or any time thereafter excepting certain violent and sexual offenses. Those with federal and out of state convictions apply where they reside.	* Converts mandatory licensing bars into discretionary for 26 separate licensing acts. * Provides immunity to employers against negligent hiring.	No data collection or centralized tracking.
<b>Illinois</b> Certificate of Good Conduct	Available from court of conviction 1-2 years after completion of sentence, excluding certain violent	* A certificate “may relieve the individual of all disabilities and bars”	No data collection or

730 Ill. Comp. Stat. Ann. 5/5-5.5-5 <i>et seq.</i>	and sexual offenses. Those with federal and out of state convictions apply where they reside.	involving employment, occupational licensing, or housing, excluding employment in law enforcement or corrections. * Provides immunity to employers against negligent hiring.	centralized tracking.
<b>Louisiana</b> Certificate of Employability La. Rev. Stat. Ann. § 23:291.1	Available from reentry court (included for diverted cases). Excludes crimes of violence and sexual offenses.	Employer of certified employee “shall not be subject to a cause of action for negligent hiring”.	No data collection or centralized tracking.
<b>New Jersey</b> Certificate of Rehabilitation N.J. Stat. § 2A:168A-1 <i>et seq.</i>	Available from sentencing court if no prison sentence imposed (thereafter from supervisory agency 3 years after completion of supervision). Only single felony conviction eligible, excluding first-degree crimes or crimes requiring registration.	Certificate “suspends” certain bars to employment or licensure, provides “presumptive evidence of rehabilitation”.	No data collection or centralized tracking.
<b>New Mexico</b> Order of Limited Relief N.M. Stat. Ann. §§ 31-29-10 <i>et seq.</i>	Available from court at sentencing. Any misdemeanor or any felony eligible, including federal and out of state.	* Converts mandatory licensing bars to discretionary and may provide relief from collateral sanctions related to employment, education, housing, public benefits or occupational licensing. * May be introduced as evidence of due care in various negligence claims.	No data collection or centralized tracking.
<b>New York</b> Certificate of Relief from Disabilities N.Y. Correct. Law § 701 <i>et seq.</i> , N.Y. Exec. Law § 296(15)	* Available from court at sentencing if no prison sentence imposed, or at any time thereafter. * Any number of misdemeanors but only one felony eligible, including federal and out of state.	* A certificate “may relieve the individual of all disabilities and bars,” including firearms restoration. Creates presumptions in favor of licensure. * Certificate creates a “rebuttable presumption” in favor of excluding evidence in hiring negligence suit.	No data collection or centralized tracking.

<p><b>North Carolina</b> Certificate of Relief N.C. Gen. Stat. § 15A-173.1 <i>et seq.</i></p>	<p>* Available from court of conviction 1 year after completion of last sentence. * Any number of misdemeanors and no more than 3 Class H or I felonies.</p>	<p>* May relieve most mandatory restrictions on employment and licensure. * “Bars” any action alleging lack of due care by employer, landlord, and others.</p>	<p>No data collection or centralized tracking.</p>
<p><b>Ohio</b> Certificate of Qualification for Employment Ohio Rev. Code Ann. § 2953.25</p>	<p>Eligible individuals file applications with correctional agency as conduit to civil court in county of residence, 1-3 years after release from incarceration or completion of sentence, whichever is later.</p>	<p>* Removes barriers for non-healthcare licenses. * Provides immunity for employers against negligent hiring liability, evidence of due care for other negligence claims.</p>	<p>1,950 (2013-2023), or an average of 177 per year.</p>
<p><b>Tennessee</b> Certificate of Employability Tenn. Code Ann. § 40-29-107</p>	<p>Available from court of conviction upon completion of sentence or court in the county of residence. Any offense is eligible, including federal and out of state. Extensive character inquiry by court.</p>	<p>* Removes mandatory barriers to occupational licensing. * Provides immunity for employers against negligent hiring, evidence of due care for other negligence claims.</p>	<p>As of 2021, no data collection or centralized tracking.</p>
<p><b>Vermont</b> Order of Limited Relief Vt. Stat. Ann. tit. 13, § 8010</p>	<p>Available from court at sentencing or from the Superior Court thereafter, including federal and out-of-state convictions. Excludes 32 “listed crimes” plus drug trafficking from eligibility.</p>	<p>* Converts mandatory licensing bars to discretionary and may provide relief from mandatory sanction related to education, employment, housing, or public benefits. * Provides evidence of due care in defense of any negligence claim against employer, landlord, etc.</p>	<p>As of May 2023, no data collection or centralized tracking.</p>
<p><b>Vermont</b> Certificate of Restoration of Rights Vt. Stat. Ann. tit. 13, § 8011</p>	<p>Available from court of conviction 5 years after completion of sentence, including federal and out-of-state convictions. Excludes 32 “listed crimes” plus drug trafficking from eligibility.</p>	<p>* Converts many mandatory licensing and employment bars to discretionary. * Provides evidence of due care in negligence claims involving hiring, renting, etc.</p>	<p>As of May 2023, no data collection or centralized tracking.</p>

<p><b>Washington</b> Certificate of Restoration of Opportunity Wash. Rev. Code § 9.97.020</p>	<p>Available from the sentencing court or court in county of residence, 1-5 years after sentencing or release from confinement. Excludes Class A, violent, or sexual felonies.</p>	<p>* Converts many mandatory licensing bars to discretionary; prohibits denial of most public employment. *Makes evidence of conviction inadmissible in suit involving hiring and renting negligence.</p>	<p>138 (2016-2022), or an average of 20 per year.</p>
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[Return to Certificate Map.](#)

## Chart # 2 - Correctional Certificates

State and Certificate	Petition-Based?	Eligibility	Effect	Frequency
<b>Connecticut</b> Certificate of Employability Conn. Gen. Stat. §§ 54-130e, 54-108f	YES	* On application to Board of Pardon and Paroles (BOPP) after 90 days of supervision or the Judicial Branch Court Support Services Division (JB-CSSD) after 6 months of supervision. * Federal and out-of-state convictions eligible.	* Presumes rehabilitation when applying for licensure; prohibits discrimination based on criminal record in public employment * Limits employer liability for negligent hiring, retention, or supervision.	1,031 (2015-2024), or an average of 115 per year.
<b>Georgia</b> Program and Treatment Completion Certificate Ga. Code Ann. §§ 42-2-5.2, 51-1-54(b)	NO	* Issued automatically to all eligible individuals exiting prison or completing probation. * Excludes serious violent convictions, major misconducts, refusal of programming, or active ICE detainers.	Creates a presumption of due care against negligence claims against employers, landlords, and others.	51,427 (2015-2022), or an average of 7,311 per year.
<b>Iowa</b> Certificate of Employability Iowa Admin. Code § 205-9.1(1)(906) <i>et seq.</i>	NO	Issued automatically to any prisoner granted parole or other early discharge who has completed an apprenticeship or career readiness program.	Limits denial of licensing, evidence of rehabilitation in public and private employment.	3,224 (2017-2022), or an average of 535 per year.
<b>Kentucky</b> Certificate of Employability Ky. Rev. Stat. Ann. § 196.281	NO	Issued automatically to any prisoner exiting prison who has completed education or work programs with no major disciplinary violations.	Acts as defense to negligent hiring, evidence of due care in other negligence claims.	1,177 (2021-2023), or an average of 589 per year.
<b>Maryland</b> Certificate of Rehabilitation Md. Code, Corr. Servs. §§ 7-104, Md. Code Regs. 12.13.02.01 <i>et seq.</i>	YES	* Available on application upon completion of supervision from Division of Parole and Probation, if no sexual or violent conviction and no outstanding court debt.	Converts mandatory licensing bars into discretionary disqualification.	38 (2018-2023), or an average of 6 per year.



		* One certificate lifetime limit.		
<b>Michigan</b> Certificate of Employability Mich. Comp. Laws § 791.234d	NO	Issued automatically to any prisoner who has completed educational or vocational courses and had no major misconducts and no more than 3 minor misconducts is eligible.	* Evidence of good moral character for most licenses. * Provides immunity for negligent hiring or supervision claims, evidence of due care for other negligence claims.	3,990 (2015-2023), or an average of 443 per year.
<b>New Jersey</b> Certificate of Rehabilitation N.J. Stat. § 2A:168A-1 <i>et seq.</i>	YES	* Available on application to Parole Board if only one conviction, excluding first-degree crimes or crimes that require registration, 3 years after completion of incarceration or supervision.	* Eliminates many bars to public employment and licensure, evidence of rehabilitation.	4 (2009-2023), or <1 per year.
<b>New Jersey</b> Certificate of Good Conduct N.J. Stat. § 2A:168A-1 <i>et seq.</i> ; N.J. Admin. Code § 10A:71-8-1 <i>et seq.</i>	YES	Available on application to Parole Board if under supervision or actively supervised for at least 1 year and have had no convictions for at least 5 years prior.	Prohibits denial of licenses.	7 (2009-2023), or <1 per year.
<b>New York</b> Certificate of Relief from Disabilities N.Y. Correct. Law § 701 <i>et seq.</i> , N.Y. Exec. Law § 296(15)	YES/NO	* Available to those under DOCCS supervision or, by petition, to those who have federal or out-of-state convictions. Any number of misdemeanors but only one felony eligible. * Serious and sexual offenses ineligible; no serious prison discipline in previous year.	* Relieves all disabilities, including firearms, and creates favorable presumptions in licensing. * Creates a “rebuttable presumption” favoring exclusion of evidence in hiring negligence suits.	15,976 (2011-2012, 2015-2018), or an average of 2,662 during these years.
<b>New York</b> Certificate of Good Conduct N.Y. Correct. Law § 701 <i>et</i>	YES	* By petition to those convicted of any number of misdemeanors and felonies, eligible after 1-5 years after release,	* Relieves all disabilities, including firearms, creates presumption in favor of licensing.	1,532 (2012, 2015-2018), or an average of 306 per year.

<i>seq.</i> , N.Y. Exec. Law § 296(15)		suspension of sentence, or payment of fine. * Federal and out-of-state convictions eligible.	* Creates “rebuttable presumption” favoring exclusion of evidence in hiring negligence suits.	
<b>Ohio</b> Certificate of Achievement and Employability Ohio Rev. Code Ann. §§ 2961.21-2961.24	YES	Available by petition from DRC or Parole Authority for prisoners who has completed vocational training, cognitive or behavioral improvement programs, and at least 120 hours of community service.	* Converts mandatory licensing bars into discretionary disqualification. * Acts as an “absolute defense” for employers facing negligent hiring claims.	No data available.
<b>Rhode Island</b> Certificate of Recovery & Re-entry R.I. Gen. Laws § 13-8.2-1 <i>et seq.</i>	YES	* Available by petition from Parole Board for any number of misdemeanors and only a single non-violent felony eligible, 1-to-3 years after release from custody or payment of fine, whichever is later. * Federal and out-of-state convictions eligible.	May be considered as evidence of rehabilitation.	No data available.

[Return to Certificate Map.](#)

## APPENDIX II: STATE LAW SUMMARIES\*

\* Information on other aspects of the relief schemes in the 21 certificate states (e.g., pardon, record clearing, fair chance employment and licensing) is available in CCRC’s Restoration of Rights Project (RRP), <https://ccresourcecenter.org/restoration>. This information will help locate certificates in the broader context of a state’s general record relief provisions, and permit comparisons on eligibility and other qualification criteria.

The several references in this Appendix to a “student researcher” are to Liz Chadwick, who worked as a part-time intern for CCRC in 2022-2023 when she was a senior at the University of Vermont. Her research on the operation of certificates of relief programs for her undergraduate honors thesis, supervised by Professor Alex Ewald, has proved a valuable addition to this report. See “*I Mean, It’s a Nice Idea*”: *Exploring States’ Certificate-Based Remedies for the Collateral Consequences of Criminal Convictions*, Thesis submitted in April 2023 in satisfaction of the requirements of the Honors Program, Department of Political Science, University of Vermont.

### ALABAMA

In Alabama, anyone convicted of a misdemeanor or a felony, including federal and out-of-state convictions, may petition a circuit court for an “Occupational Licensing Order of Limited Relief.” Ala. Code § 12-26-1 *et seq.* As the name suggests, the order only provides relief from collateral consequences imposed by licensing boards (excluding law enforcement), by converting automatic disqualifications into discretionary bars. § 41-9A-2. When considering a petition, the court may consider multiple factors, including “the relationship between the offense and collateral consequence.” A court “shall grant the petition if it reasonably satisfied” that an order of limited relief “will materially assist the petitioner in obtaining or maintaining employment and in living a law-abiding life and will not pose an unreasonable risk to the safety or welfare of the public or any individual.”

Note that Alabama does not limit or impose an overarching evidentiary standard on how licensing boards may use their discretionary consideration for applicants with an order of limited relief. According to a 2024 fiscal note for Senate Bill 79, since the law took effect in 2019 there have been 11 petitions for orders of limited relief. [Senate Bill 79 Fiscal Note](#), Alabama Legislature. Apr. 1, 2024.

[Return to Certificate Map.](#)

### ARIZONA

All but violent and sex offenses may be set-aside and charges dismissed upon discharge, after a hearing in which the court applies a multifactor test. Set-aside relieves certain “penalties and disabilities, and restores firearms rights for non-serious felonies, but the conviction must be disclosed and serves as a predicate. Ariz. Rev. Stat. § 13-905(A). Under a 2021 law, when a court grants an application to set aside a judgment of guilt, the order “must” include a “Certificate of Second Chance” if (1) the person was convicted of a misdemeanor; (2) the person was convicted of a class 4, 5, or 6 felony and at least two years have passed since discharge; or (3) the person was convicted of a class 2 or 3 felony and at least five years have passed since the person was

discharged. If the person is not yet eligible for a certificate when the person’s conviction is set aside, the person may apply for a certificate after satisfying the time periods described above.

The Certificate is supposed to be noted in the person’s criminal history and thus add to the legal effect of a set-aside by releasing recipients “from all barriers and disabilities in obtaining an occupational license issued under Title 32 that resulted from the conviction.” A certificate provides an employer of the person the protections of § 12-558.03(C) (protection from negligent hiring liability); and a landlord with the protections limiting the introduction of evidence that are provided to an employer under § 12-558.03(B)(limited protection from liability for failure to provide adequate supervision). *See* Ariz. Rev. Stat. §§ 13-905(A), (J) through (N).

In 2023, a student researcher\* conducted nine telephone interviews and had two lengthy email exchanges with attorneys and state and county officials working in Pima County, Pinal County, and Maricopa County, AZ. Although court officials and public defenders expressed familiarity with Arizona’s other mechanisms of record relief, most were unfamiliar with the Certificate of Second Chance, which was new at the time. Anecdotally, it appears that few people are seeking these certificates, though the law appears to require that they be granted to any eligible individual. The Arizona State Police Central Repository, whose personnel input motions for set aside and certificates into their system by hand, were unable to provide any statistics on the number of certificates requested or certificates sought or granted since their enactment.

[Return to Certificate Map.](#)

## CALIFORNIA

California residents convicted of a felony, or a misdemeanor sex offense, who have completed their sentence, may apply to the Superior Court in their county of residence or county of conviction for a Certificate of Rehabilitation (COR) after a “period of rehabilitation” ranging from 7 to 10 years: Five years residence plus an additional period of 4 years for certain violent felonies, 5 years for offenses that require sex-offender registration, or 2 years for all other offenses. Cal. Penal §§ 4852.01 through .06, 4852.19. A trial court hearing an application for a COR before the applicable period of rehabilitation has elapsed may grant the application if the court, in its discretion, believes relief serves the interests of justice. § 4852.22. The COR is an order embodying a court’s finding that the defendant is “rehabilitated” and its recommendation to the governor that the defendant be pardoned. § 4852.13. Sections 480(b) and 490 of the California Business & Professional Code provide that no one who has been granted a COR shall be denied an occupational license “solely” on the basis that he has been convicted of a felony; and, a COR removes some mandatory statutory employment barriers, serving as a basis for waiver. Persons who do not have counsel may be represented by the public defender, the probation department, or the court may assign counsel. Cal. Penal § 4852.08.

In 2023, a student researcher\* conducted interviews and email conversations with attorneys at reentry nonprofits and staff at statewide judicial offices and correctional agencies. According to the California Attorney General’s Office, neither the Judicial Council of California nor the California Department of Justice collect statewide data on the number of COR applications or how often they are approved or denied, and data is only available at the county level. Criminal justice professionals were generally familiar with the COR, perhaps due to its connection to California’s pardon process. According to a nonprofit organizer, the COR is the “most difficult to obtain” of

California’s record relief options, in part because it requires character reference letters. Lawyers with non-profit organizations informed the researcher that they know of no private programs to assist applicants for certificates (unlike expungement clinics which are ubiquitous), and that they believe that applicants are primarily pro se. Cf. Cal. Penal § 4852.08, noted above.

[Return to Certificate Map.](#)

## COLORADO

At the time of conviction or at any time thereafter, upon the request of the defendant a sentencing court may enter an “order of collateral relief” to relieve a defendant of any collateral consequences of the conviction, “for the purpose of preserving or enhancing the defendant’s employment prospects and to improve the defendant’s likelihood of success in the community.” Colo. Rev. Stat. § 18-1.3-107(1). Certain violent or sexual convictions are ineligible for relief, and certain consequences (education licenses and law enforcement or judicial branch employment) may not be overridden. § 18-1.3-107(4). An occupational license may not be denied based on a conviction that has received an order of collateral relief. Colo. Rev. Stat. § 24-5-101(2)(b). Defendants must be notified prior to sentencing of the availability of this relief. Colo. Rev. Stat. § 16-11-102(1)(a)(II.5). The court may conduct a hearing on any matter relevant to the granting or denial of an application or include a hearing on the matter at the defendant’s sentencing hearing and may take testimony under oath. § 18-1.3-107(5).

An order may be issued if the court finds it would be “consistent with the applicant’s rehabilitation” and if “granting the application would improve the applicant’s likelihood of success in reintegrating into society and is in the public’s interest.” § 18-1.3-107(6). If relief is sought after sentencing, there is a filing fee of \$30 in addition to the usual civil filing fee, subject to waiver for indigency. § 18-1.3-107(2)(a). The court “may at any time issue a subsequent judgment to enlarge, limit, or circumscribe the relief previously granted,” or may revoke the relief upon evidence of a subsequent criminal conviction or proof that the defendant is no longer entitled to relief. § 18-1.3-107(6).

A 2017 report by the Colorado Commission on Criminal and Juvenile Justice found that “the judiciary does not consistently track when orders of collateral relief are requested or granted. This lack of data renders it virtually impossible to determine whether the orders are serving their intended purpose.” [Final Recommendation Presented to the Colorado Commission on Criminal and Juvenile Justice](#), June 9, 2017. (2)

[Return to Certificate Map.](#)

## CONNECTICUT

Connecticut offers a Certificate of Employability (also styled as a “Certificate of Rehabilitation”) that can be issued on application either by the Board of Pardons and Paroles (BOPP) or the Judicial Branch Court Support Services Division (JB-CSSD). Conn. Gen. Stat. §§ 54-130e, 54-108f. To qualify for a COE through BOPP, an applicant either must wait 90 days after completion of sentence or have been under supervision for the past 90 days; JB-CSSD eligibility requires at least 6 months of court supervision. Those with federal or out-of-state convictions may be eligible for a COE if they reside or do business in the state. §§ 54-130e(a)(4). When applying for an

occupational license, a COE “shall establish a presumption that such applicant has been rehabilitated.” § 46a-80(c). Finally, Connecticut bars public employers from denying employment to, discharging, or discriminating against an applicant with a COE. § 31-51i(e), (f). For negligent hiring, supervision, or retention claims against employers, a certificate creates “a rebuttable presumption against admission of evidence of the prior criminal conviction.” § 52-180b.

A 2018 report released by the Connecticut Sentencing Commission found that “less than one half of one percent of the total eligible persons under sentence applied for a certificate of employability.” See [Connecticut Certificates of Employability Final Program Evaluation Report](#). Since 2015, Connecticut has issued 1,031 COEs, or just under 115 certificates a year on average. By an almost 2-to-1 margin, BOPP issued more certificates than JB-CSSD (647 to 384). [Certificates of Employability Verification](#), *Connecticut Board of Pardons and Paroles*. In 2022, BOPP issued 28 COEs and 1712 full pardons; in 2023 it issued 32 COEs and 1232 full pardons. Statistics for earlier years are similarly skewed. See [Monthly Pardons and Paroles Activity](#).

[Return to Certificate Map.](#)

## GEORGIA

2014 legislation created a “Program and Treatment Completion Certificate” issued by the Department of Corrections for which all incarcerated individuals are potentially eligible except those convicted of a serious violent offense. “Such certificate shall symbolize an offender’s achievements toward successful reentry into society.” Ga. Code Ann. § 42-2-5.2(c). The certificate is intended to encourage hiring, licensing, and admission to schools and other programs by offering protections from liability to those engaging with certificate holders. Ga. Code Ann § 51-1-54(b). The certificate program was extended in 2017 so that people on probation may also qualify for this relief through the Department of Community Supervision. § 42-3-2. The Georgia certificate does not have any effect on restrictions related to occupational licensing, though Georgia’s licensing laws already require individualized assessment of whether a person’s record is “directly related” to the license. Ga. Code Ann § 43-1-19(q).

In 2022, the Board of Corrections promulgated eligibility criteria and operating procedures for issuing certificates. See [Program and Treatment Completion Certificate Standard Operating Procedures](#). The eligibility criteria are clear and largely objective: a person is eligible if they have not been convicted of one of a small group of enumerated serious violent felonies, do not have an active ICE detainer, have not had any major misconduct while in prison, and have not refused or been withdrawn on disciplinary grounds from programs or treatment within the twelve (12) months prior to release. A certificate lists all assessed and referred mandated programs identified by correctional staff and completed by the offender. The operating procedures make DOC staff responsible for seeing that eligible prisoners know about the certificate, its eligibility requirements, and its benefits. Once a person’s release date is determined, a counselor meets with a person who is eligible for a certificate to let them know that the certificate will be included in their “release package,” and to “discuss the certificate’s use and benefits.” The certificate is then automatically provided to a person upon their release. These procedures and the process for awarding certificates are described in Cara Suvall, [Certifying Second Chances](#), 42 *Cardozo L. Rev.* 101, 126-130 (2021).

Since fiscal 2015, the Department of Corrections has issued 51,427 certificates, or 7,311 per year on average, making it by far the nation’s most widely issued certificate. By fiscal 2019, 99.7% of

all eligible offenders were receiving a certificate annually, a figure that represented 49% of all those released that year. Although data on the number of eligible offenders who did not receive a certificate is lacking for other years, roughly half of all released offenders had obtained a certificate in fiscal 2020, 2021, and 2022. *See* Georgia Department of Corrections Fiscal Year 2022 Annual Report 15, 41, *and* FY 2019 Annual Report 25, 46.

[Return to Certificate Map.](#)

## ILLINOIS

Illinois has two separate judicial certificates: the Certificate of Relief from Disabilities (CRD) and the Certificate of Good Conduct (CGC), both of which were authorized in 2005. 730 Ill. Comp. Stat. Ann. 5/5-5.5-5 *et seq.* A CRD can be issued as early as sentencing and assists in obtaining employment and occupational licenses, which may be denied to a CRD-holder only if there is a “direct relationship” between the underlying offenses and the license sought, or if issuing the license would involve an unreasonable risk of harm. 5/5-5.5-15. A CGC is available after a brief waiting period and may be granted to anyone who has “demonstrated by clear and convincing evidence that he or she has been a law-abiding citizen and is fully rehabilitated.” 5/5-5.5-25. A court may issue a CGC to eligible persons “to relieve an eligible offender of any employment bar. The certificate may be limited to one or more disabilities or bars or may relieve the individual of all disabilities and bars.” *Id.* A CRD and CGC are available to those who have been convicted “in any other jurisdiction.” 5/5-5.5-5. A CRD and CGC also protect from negligent hiring liability: “An employer is not civilly or criminally liable for an act or omission by an employee who has been issued a certificate of relief from disabilities, except for a willful or wanton act by the employer in hiring the employee who has been issued a certificate of relief from disabilities.” 5/5-5.5-15(f)(CRD); 5/5-5.5-25(c)(CGC).

In 2023, a student researcher\* conducted twenty-four interviews with circuit court staff, public defenders, legal aid organizations, nonprofit organizations, private employers, and state judicial agencies. Her review was unable to identify a source of data for certificates offered by the courts, despite the fact that courts are required to inform the State Police of a granted certificate. A staff attorney at a prominent legal aid organization said that she and her colleagues had pursued only “a handful” of CGC cases in the 20 years since they were authorized. Lawyers in the state appellate defender’s office, which provides resources for lawyers on sealing and expungement, indicated a general unfamiliarity with certificates.

[Return to Certificate Map.](#)

## IOWA

The Iowa Parole Board “shall issue a certificate of employability at the time of release” to those who have been granted parole, work release, or other early discharge, and who have either completed a Department of Corrections registered apprenticeship program or the National Career Readiness Certificate and the life skills program. Iowa Code § 906.19. Only convictions that require sex offender registration are ineligible for a certificate. The purpose of the certificate is “to maximize the opportunities for rehabilitation and employability of a person and provide protection of the community, while considering the needs of potential employers.” *Id.*

Under rules promulgated by the Parole Board, a certificate may be presented to any public or private employer as evidence of rehabilitation “except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon.” Iowa Admin. Code 205-9.2(1)(906). When a certificate of employability is presented to a licensing agency, the agency “cannot deny a license based on the felony conviction or based on a lack of good moral character, unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.” 205-9.2(2)(906).

Under Iowa’s general occupational licensing laws revised in 2020, a licensing board is required to grant a waiver to an individual whose conviction is “directly related” and thus presumptively disqualifying, if the individual is determined to be “rehabilitated and an appropriate candidate for licensure” based on a list of factors that include the nature and seriousness of the crime, the passage of time, and other mitigating or aggravating factors, including whether they have received a certificate of employability. Iowa Code §§ 272C.15(1), (4).

After Iowa’s certificate program first took effect in 2009, over the next seven years “not a single inmate . . . completed the application form to get one.” Barbara Rodriguez, [Iowa officials seek to help inmates with new certificate](#), Associated Press, July 17, 2016. The grant rate changed dramatically after the Board adopted regulations that replaced the petition-based system with an automated process: Between 2017 and 2022, Iowa issued 3,224 certificates, or an average of 535 each year, according to a record request filed by CCRC. [Board of Parole Certificate of Employability Statistics](#), Iowa Board of Parole, Feb. 27, 2024.

*[Return to Certificate Map.](#)*

## KENTUCKY

In 2021, the legislature created a new section of Chapter 196 to require the Kentucky Department of Corrections (DOC) to issue a “certificate of employability” to prisoners upon their release if they have completed certain educational or vocational training and have not incurred any major disciplinary infractions while incarcerated. Ky. Rev. Stat. Ann. § 196.281(3). In negligent hiring claims, a certificate “may be a defense for the employer.” For other negligence claims against employers, landlords, schools, or anyone else who engaged with a certificate holder, the certificate may be introduced as evidence of due care, provided the person knew of the certificate at the time of the alleged negligence. §196.281(9).

The DOC shall “notify incoming prisoners of the possibility to earn a certificate of employability.” § 196.281(10). In addition, DOC is required to assist prisoners with writing resumes, to provide them with driver identification documents, and to work with the Department of Health and Family Services to prioritize provision of Medicaid benefits to prisoners 30 days prior to release.

The law requires annual reports to the governor and legislature on the number of certificates awarded and their effect on recidivism. The responsive DOC report in September 2023, obtained in a public records request by CCRC, reported that between June 2021 and September 2023 the DOC issued 1,177 Certificates of Employability. As to their effect on recidivism, “13% returned



to DOC custody, with nine percent (9%) receiving a technical violation and four percent (4%) receiving a new felony commitment. The twelve-month recidivism rate for offenders released with a COE in 2021 is 20.24%.” This report also stated that the “Division of Reentry has eleven (11) staff members who conduct employment assessments and refer supervised individuals to employment opportunities. These DOC staff members have excellent relationships with employers in the community and assist in educating employers about the COE.” [2021RS House Bill 497 KRS 196.281 Certificate of Employability Report](#), Kentucky Department of Corrections, Sept. 29, 2023.

[Return to Certificate Map.](#)

## LOUISIANA

Judges presiding over a reentry division of court “shall issue” a temporary “certificate of employability” to probationers under the intensive supervision of the court and a permanent certificate of employability to those who have completed their sentence. La. Rev. Stat. Ann. § 23:291.1. To qualify for a reentry court, defendants must be eligible for the state’s Offender Rehabilitation and Workforce Development Program and not have been convicted of sex offenses or certain crimes of violence. §13:5401(B)(1). Defendants must be notified if they may be eligible and must request enrollment in the workforce development sentencing program prior to sentencing. §13:5401(B)(2). Judges must determine if referral to the reentry program “is in the interest of justice and of benefit to the defendant and the community” and may require the defendant to complete drug treatment as part of the sentence. §13:5401(B)(3)(b), (6). Program participants are not eligible for parole or earning “good time.” §13:5401(B)(3)(d).

After completing the program, a defendant may be placed on probation under the intensive supervision of the court and must pay the cost of any treatment programs, tests, or assessments, or additional supervision. §13:5401(B)(3), (7)(c). The effect of these certificates is to bar negligent hiring or supervision claims based “solely” on an employee or contractor’s conviction. §§ 291.1(C), 291(E)(1). Louisiana’s general negligent hiring protections are more limited, and permit claims if the negligence was “substantially related” to the employee’s conviction and if the employer knew or should have known about the conviction. §291(E)(2)(a).

[Return to Certificate Map.](#)

## MARYLAND

The Maryland Department of Public Safety and Correctional Services administers a Certificate of Rehabilitation targeted at eliminating occupational licensing barriers. Md. Code, Corr. Servs. § 7-104, Md. Code Regs. § 12.13.02.01 *et seq.* A certificate converts mandatory ineligibility for an occupational license based on a criminal conviction into discretionary disqualification by licensing boards and is helpful in establishing the “character” component of a licensing investigation. To be eligible, applicants must have been convicted of a nonviolent and non-sexual state offense and been supervised by the Division of Parole and Probation. Applicants must have completed supervision and paid all court debt. An individual is limited to one certificate in their lifetime. The law provides that the Department “shall issue” a certificate to all those who are eligible, and applicants must submit a written request to the Division and authorize the Division to conduct an investigation into their eligibility, which includes running a Criminal History Record Information (CHRI) check. Once the Division intends to issue a certificate, the State’s Attorney as well as any

victims must be provided with the opportunity to comment. Md. Code, Corr. Servs. § 7-104(g), Md. Code Regs. §§ 12.13.02.05(B), 12.13.02.06.

A records request by CCRC to the Department revealed that between 2018 and 2023 the Department received 62 certificate applications, issued 38 certificates and denied 22 applications, with 2 applications still under investigation at the time of the report. For the denials, 8 were denied based on unpaid court debt, 6 had violent or sexual convictions, 5 had failed to complete supervision or probation, 1 had pending charges, 1 had a new conviction, and 1 had no criminal history or supervision in Maryland. *Maryland Department of Public Safety and Correctional Services Justice Reinvestment Act Reports, Fiscal Years 2018-2023*, 3.

[Return to Certificate Map.](#)

## MICHIGAN

The Michigan Department of Corrections “shall issue” a “certificate of employability” to any prisoner who has completed either educational or vocational courses and incurred no major misconducts and no more than 3 minor misconducts in the 2 years before release. Mich. Comp. Laws § 791.234d. In claims seeking damages for personal injury, property damage, or wrongful death, a certificate “may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business” with the certificate holder. § 600.2956a. For negligent hiring claims, a certificate of employability “conclusively establishes that the employer did not act negligently in hiring the individual, if the employer knew of the certificate at the time of hire.” § 600.2956a. In lawsuits alleging negligent retention, an employer who retained a certificate holder is “not liable,” unless the employer had “actual knowledge that the individual was dangerous.” In addition, licensing agencies, aside from those that regulate law enforcement, attorneys, childcare, adult foster care, and nursing homes, are required to “consider an individual’s certificate of employability...in the determination of an individual’s good moral character.” § 338.42(4).

According to a record request from CCRC, the Michigan Department of Corrections issued 3,990 certificates between 2015-2023. During that same period, the Department revoked 210 certificates, a revocation rate of just over 5.26%. [Certificates of Employability \(COEs\) 2015-2023](#), Michigan Department of Corrections, Feb. 29, 2024.

[Return to Certificate Map.](#)

## NEW JERSEY

New Jersey offers two different certificates: a Certificate of Rehabilitation (COR, also known as a “Certificate Suspending Certain Employment, Occupational Disabilities, or Forfeitures”) and a Certificate of Good Conduct (CGC). N.J. Stat. § 2A:168A-1 *et seq.*, N.J. Admin. Code § 10A:71-8-1 *et seq.* A COR may be issued to a “qualified offender” either by the court at sentencing or by the supervising authority at least 3 years after completing supervision. Qualified offender refers to a person with one criminal conviction, or with convictions for more than one crime charged in separate counts of one indictment or accusation. Convictions older than 10 years are not considered when determining whether a person has a criminal conviction. Qualified offenders exclude those

who have been convicted of a first-degree crime, a crime against a public officer, a crime that requires registration, or a crime committed against minors or the disabled.

To be eligible for a COR at sentencing, the sentence must not involve incarceration, and the applicant must establish that “a specific licensing or employment disqualification, forfeiture, or bar...may endanger” the applicant’s employment or business prospects. If granted, the COR would “apply only to the specific disability, forfeiture or bar that is affected.” For CORs issued by the supervising authority, the COR “may suspend disabilities, forfeitures and bars generally” or only those “specifically named in the certificate.” A supervising authority may issue a COR if issuance “will not pose a substantial risk to public safety” and “will assist in the successful reintegration of the offender and is consistent with the public interest.” Either the applicant or the supervising authority must provide notice to the prosecutor about an application for a COR and/or its issuance. § 2A:168A-10.

The CGC is issued by the Parole Board alone, and only to applicants who have either previously been under the Board’s supervision or who are currently being supervised by the Board for at least one year. Applicants must also be conviction-free for at least 5 years prior to applying. N.J. Admin. Code § 10A:71-8-2(a). In evaluating an application, the Board must decide whether the applicant has “achieved a degree of rehabilitation indicating that his or her engaging in the proposed employment would not be incompatible with the welfare of society § 10A:71-8.4. For both COR and CGC applications to the Parole Board, applicants must “furnish all documentary evidence,” unless otherwise specified. N.J. Admin. Code §§ 10A:71-8.3(c), 10A:71-9.5(c).

Holding either certificate “shall preclude a licensing authority from disqualifying or discriminating against the applicant,” excluding mortgage licenses. N.J. Stat. § 2A:168A-3, N.J. Admin. Code 10A:71-8.1(c). A COR can have greater legal effect, eliminating bars for public employment, aside from positions in law enforcement, the judiciary, “any position related to homeland security or emergency management, or any position that has access to sensitive information that could threaten the public health, welfare, or safety.” For both licensing and public employment purposes, a COR is to be considered “presumptive evidence of rehabilitation.” N.J. Stat. § 2A:168A-9.

According to a CCRC record request, since the program began in 2009 and through the end of 2023, the Board had received 114 applications for its CGC, but only issued 7 grants and 13 denials. For CORs, the Board received 182 applications, but issued just 4 grants and 3 denials. The Board also revoked a COR in 2016 it had issued previously in 2011. [Certificate of Good Conduct and Certificate of Rehabilitation Applications](#), New Jersey Parole Board, Feb. 21, 2024. No information appears to be available for court-issued CORs.

[Return to Certificate Map.](#)

## NEW MEXICO

Individuals with any felony conviction may petition the sentencing court for an “order of limited relief,” seeking relief from “one or more collateral sanctions related to employment, education, housing, public benefits or occupational licensing.” These orders do not affect mandatory sanctions involving registration, firearms, driving offenses, and employment in law enforcement or corrections. N.M. Stat. Ann. §§ 31-29-10(A), 31-29-11. However, petitions may also be filed

by individuals convicted in another jurisdiction if the issuing jurisdiction did not grant relief from an eligible collateral consequence, though which court is left unspecified. § 31-29-9(E).

Defendants must be given written notice of the collateral consequences of a conviction, the potential availability of relief, and any contact information for organizations that offer such assistance. §§ 31-29-5(A), 31-29-6. Prosecutors must be notified of a request for an order of limited relief, and any victims may participate in the proceedings. §§ 31-29-12(A), 31-29-14. In an action for negligence, an order issued under § 31-29-10 may be introduced “as evidence of a person’s due care in hiring, retaining, licensing, leasing to, admitting to a school or program or otherwise transacting business or engaging in activity with the individual to whom the order was issued” if the person knew of the order at the time of the alleged negligence. § 31-29-13.

A petition may be granted only if the court determines that the order “will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits or occupational licensing,” the petitioner has “substantial need for the relief requested in order to live a law-abiding life,” and if granting relief “would not pose an unreasonable risk to the safety or welfare of the public or any individual.” § 31-29-10(B). When mandatory sanctions are relieved by an order (which may include automatic disqualification from an occupational license), the decision-maker must “undertake an individualized assessment to determine whether the benefit or opportunity should be denied,” but can still deny the benefit or opportunity if the underlying offense is “substantially related.” §§ 31-29-8, 31-29-10(E).

Petitions for orders of limited relief are not tracked in the court management database administered by the New Mexico Administrative Office of the Courts. *IPRA Request Response*, New Mexico Administrative Office of the Courts, Apr. 17, 2024. Similarly, the New Mexico District Attorneys Association case management system has “no way to track” prosecutors who have been provided notice of a request for an order of limited relief. [IPRA Request- Orders of Limited Relief](#), New Mexico District Attorneys Association, Apr. 22, 2024.

[Return to Certificate Map.](#)

## NEW YORK

New York pioneered the certificate model, first creating the Certificate of Good Conduct (CGC) in 1945 and later the Certificate of Relief from Disabilities (CRD) in 1966. For decades, these were the nation’s only certificates of their kind. A CRD is available for any number of misdemeanors but only one felony and can be issued as early as sentencing by a court if a person is not sentenced to a prison term. Courts are required to notify eligible individuals at sentencing of the certificate’s availability. See [Uniform Rules for New York State Trial Courts, Part 200, § 200.9](#). A CRD is also available by petition from the Department of Corrections and Community Supervision (DOCCS) provided the applicant has been under the Department’s supervision or was convicted in “any other jurisdiction,” or essentially automatically to eligible parolees. N.Y. Correct. Law § 703(1). A CGC is only available from the Department of Corrections and Community Supervision (DOCCS) and can encompass multiple felonies, including those from other jurisdictions, but imposes a waiting period ranging from 1-5 years, depending on the offense and measured either from release, suspension of sentence, or payment of fine. § 703-b(3). For both CRDs and CGCs, issuing the certificate must be “consistent with the rehabilitation of the eligible offender” and “consistent with the public interest.” §§ 702(2), 703-b(1). Those with federal and

out-of-state convictions who reside or do business in the state may apply for either certificate through DOCCS.

Both certificates provide almost identical relief, except a CGC allows its holder to run for public office, while a CRD does not provide relief from certain automatic license forfeitures. A CRD or CGC “may be limited to one or more enumerated disabilities or bars, or may relieve the individual of all disabilities and bars.” More specifically, certificates “remove any bar to [the holder’s] employment, automatically imposed by law by reason of conviction of the crime or of the offense,” replacing automatic disqualifications with discretionary consideration. §§ 701(1), (2), 703-A(1). For applicants seeking licensure, either certificate “shall create a presumption of rehabilitation.” § 753(2). In addition, for negligent hiring, retention, or supervision claims, obtaining a certificate can help secure for the holder’s employer a “rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person.” N.Y. Exec. Law § 296(15).

The New York Division of Criminal Justice Services, as well as most county courts, lack a centralized record of CRD applications and grants, but it appears that few CRDs have been issued by courts in recent years. After conducting interviews with 21 county and city court judges and 23 county probation officers, an academic researcher found that “in most New York courts, sentencing grants appear to be extremely rare,” with judges and probation officers often objecting outright, while “it appears that in most counties, fewer than 5 percent of people sentenced in a typical year are seeking certificates.” Alec Ewald, [Rights Restoration and the Entanglement of US Criminal and Civil Law: A Study of New York’s “Certificates of Relief.”](#) 41 Law & Social Inquiry 12-15 (2016). See also CCRC Staff, [New York certificates fall short in practice](#), Feb. 29, 2016 (describing certificates as “frequently inaccessible to their intended beneficiaries and misunderstood both by the officials tasked with issuing them and the employers and licensing boards that should be giving them effect”).

The story is different for the centralized issuance of certificates by DOCCS. A policy directive in 2005 requires DOCCS staff to identify all individuals who may be eligible for a CRD and “prepare a certificate for each eligible incarcerated individual approved for release.” The Superintendent must then issue grant the certificate automatically upon the individual’s release from confinement if it would be “consistent with the rehabilitation of the person” and “consistent with the public interest.” If granting the certificate would not be consistent with the person’s rehabilitation or the public interest, or if the individual has spent time in disciplinary confinement or lost any good time in the previous 12 months, the Superintendent is required to defer the certificate for 24 months. Individuals who are serving a sentence on felony sex offenses, kidnapping, hate crimes, or terrorism are not eligible. [Certificates of Relief from Disabilities Pre-Release](#), N.Y. Department of Corrections and Community Supervision Directive #8400, March 24, 2023.

In the decade prior to 2005, the Department of Parole issued an annual average of 250 certificates, both CRDs and CGCs. Joy Radice, [Administering Justice: Removing Statutory Barriers to Reentry](#), 83 U. Colo. L. Rev. 675, 776 (2012). In the years following the new policy, that figure jumped tenfold, with DOCCS granting an annual average of 2,393 certificates between 2006 and 2018. In recent years, more than 80% of all certificates issued by DOCCS were CRDs granted upon release. Cara Suvall, [Certifying Second Chances](#), 42 Cardozo Law Review (2021).

[Return to Certificate Map.](#)

## NORTH CAROLINA

Individuals with misdemeanor and minor felony convictions may petition the court of conviction for a Certificate of Relief one year after completion of sentence if they are engaged in, or seeking to engage in, a lawful occupation or activity, if no criminal charges are pending against them, and if granting the petition “would not pose an unreasonable risk to the safety or welfare of the public or any individual.” N.C. Gen. Stat. § 15A-173.2(b). A \$50 application fee may be waived for indigency. Procedures for issuance of a Certificate include a court proceeding at which the prosecutor and victim may be heard. Denial must be accompanied by reasons, with an opportunity to reapply within one year. § 15A-173.2(g), (h); 15A-173.4.

A Certificate of Relief relieves all mandatory consequences except those pertaining to registration, firearms, driving offenses, and employment in law enforcement or corrections. Government officials “shall consider” a Certificate favorably in determining whether a conviction should result in discretionary disqualification. §§ 15A-173.2(d), 15A.173.3. Before a licensing board may deny a license based on conviction, it must “specifically” consider a Certificate among a range of other factors. N.C. Gen. Stat. § 93B-8.1(b1)(6b). A Certificate of Relief “is a bar to any action alleging lack of due care” in hiring, licensing, leasing, or otherwise transacting business with the Certificate holder, if the person knew of the Certificate of Relief at the time of the alleged negligence. N.C. Gen. Stat. § 15A-173.5.

Information about the number of certificates issued by North Carolina courts does not appear to be available. An informal survey of legal aid lawyers indicated that few certificates have been sought and that record clearing is the preferred record relief mechanism even though the eligibility waiting period is a minimum 10 years from completion of sentence.

[Return to Certificate Map.](#)

## OHIO

Ohio has two certificates, both offered by its courts, and one by its correctional agencies.

**Judicial Certificate of Qualification for Employment:** Anyone who has been convicted of any offense in Ohio may petition the court in their county of residence for a Certificate of Qualification of Employment (CQE) after a brief waiting period. Application may be filed with the Department of Rehabilitation and Correction (DRC), which determines eligibility and acts as a conduit to the court. There is a rebuttable presumption of qualification after 1 year for misdemeanors and 3 years for felonies. Ohio Rev. Code Ann. § 2953.25. Individuals with out-of-state or federal convictions are not eligible for a CQE, even if they reside and/or do business in the state. *See* § 2953.25(A)(6). CQEs lift automatic bars for non-health care licenses and other employment opportunities, requiring individualized evaluation of the certificate holder’s fitness and creating a rebuttable presumption that the underlying convictions are “insufficient evidence” that the holder is “unfit” for the license or employment opportunity. As part of Ohio’s overhaul of its occupational licensing laws in 2023, boards are required to publicly list convictions that are automatically disqualifying and disclose that this disqualification can be overcome with a CQE. In negligent hiring suits, a CQE “shall provide immunity for the employer” and may be introduced as evidence of due care for employers, landlords, and schools. A series of social science research studies of the efficacy of CQE relief are listed in the Ohio profile from the Restoration of Rights Project. A collection of

research into strategies to improve reentry outcomes noted, respecting two of these studies, that “Future work measuring the effect of such policies on recidivism would be valuable.” Jennifer Doleac, [Encouraging Desistance from Crime](#), 61 *Journal of Economic Literature* 383 (2023).

In 2023, a student researcher\* conducted telephone interviews and email correspondence with correctional personnel, law professors, and statewide judicial offices, all of whom were familiar with the CQE. She determined that the Ohio DRC maintains an easily accessible website that outlines the CQE application process and offers a sample petition form. [Certificate of Qualification for Employment](#), Ohio Department of Rehabilitation and Correction. As soon as an applicant is released from incarceration, including on parole, they can file a petition online for initial review. On the ground, many reentry professionals were familiar with the CQE. The Ohio Justice & Policy Center even published a detailed, 19-page “step-by-step” guide, advising potential applicants that “getting a CQE also takes a great deal of persistence and attention to detail” as “the overall process usually takes 3–6 months.”

Between September 2012, when the CQEs first took effect, and the end of 2023, Ohio had issued 1,950 CQEs, just under 200 certificates a year. [Ohio Certificate of Qualification for Employment \(CQE\) Annual Report 2023](#), 4, Ohio Department of Rehabilitation and Correction. During that same period, Ohio courts denied at least 419 petitions. See CQE Annual Report 2023 4, [Annual Report 2022](#) 4 and [Annual Report 2021](#) 4.

**Certificate of Achievement and Employability:** A 2011 law provides for the issuance of “Certificates of Achievement and Employability” by the DRC or the sentencing court, or by the Adult Parole Authority, to obtain relief from any law that would restrict licensure in an occupation for which the prisoner trained as part of the prisoner's in-prison vocational program, in effect converting a mandatory collateral consequence to a discretionary one. See Ohio Rev. Code Ann. §§ 2961.21 through 2961.24. The relevant correctional agency shall consider any objection from the licensing agency and, if not sufficient to deny the application, “shall issue” the prisoner a CAE, which “constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the license or certification in question.” §§ 2961.22(C)(2), 2961.23(A). It also affords an employer who subsequently hires the individual with a degree of protection from liability. § 2961.23(B)(“the person’s presentation of the certificate to the employer is an absolute defense for the employer to the element of the employer's actual or constructive knowledge of the incompetence or dangerousness of the person.”) Certificates may be revoked for commission of a subsequent crime, but not for a violation of supervision that is not a crime. §§ 2961.24.

The DRC “shall adopt rules that define in-prison vocational programs and cognitive or behavioral improvement programs that a prisoner may complete to satisfy the criteria” for issuance of a certificate. § 2961.22(D). These rules at OAC 5120-14-01 describe a daunting regime of accomplishment that includes completion of vocational training, cognitive and/or behavioral programming, at least 120 hours of community service, and demonstrated “evidence of exemplary achievement and rehabilitation” while incarcerated or under supervision. [Certificate of Achievement and Employability Policies and Procedures](#), Ohio Department of Rehabilitation and Correction. According to Ohio reentry practitioners, these CAE certificates have not been regularly awarded in recent years, which is hardly surprising considering what a prisoner must do to qualify. [Return to Certificate Map](#).

## RHODE ISLAND

Rhode Island's Parole Board has been authorized since 2014 to hear petitions for and issue Certificates of Recovery and Re-entry to anyone convicted of misdemeanors and no more than a single non-violent felony. There is a waiting period of 1 year for misdemeanors and 3 years for felonies, measured either from the date of release from prison or parole, or the payment of any fine, whichever is later. § 13-8.2-4(2). Individuals convicted in other jurisdictions are eligible to apply. R.I. Gen. Laws §§ 13-8.2-2(4), (8). A certificate "shall serve as one determining factor, consistent with concerns of public safety, of the person's ability to obtain employment, professional licenses, housing and other benefits and opportunities" and "as a determination that the person receiving it has successfully achieved his or her recovery & re-entry goals as provided for in § 13-8.2-4." §§ 13-8.2-1, 13-8.2-2(5).

Obtaining a certificate may complement Rhode Island's 2020 occupational licensing reforms: Licensing boards may disqualify applicants if they have been convicted of a crime that "substantially relates" to the occupation, but this disqualification can be overcome if the applicant "can show competent evidence of sufficient rehabilitation." § 28-5.1-14(g). Unlike other states, Rhode Island guarantees immunity for anyone that "denies employment, professional licensing, housing or other benefits or opportunities" to a certificate holder based on a criminal records check. § 13-8.2-8.

Issuing a certificate requires majority approval by the state's Parole Board § 13-8.2-5(b). The Board is authorized to establish criteria for issuance of certificates and to promulgate regulations but has yet to do either in the decade since the program's enactment. A search through the Parole Board's meeting minutes for 2023 found no record of anyone applying for or receiving a certificate in that year.

[\*Return to Certificate Map.\*](#)

## TENNESSEE

A Tennessee court is authorized to issue a "certificate of employability" either in conjunction with or independently of restoration of a person's rights of citizenship under Tenn. Code Ann. §§ 40-29-101, 40-29-107a. There are no limits based on the nature of the offense. A certificate "preempts" any agency rule requiring the denial of licensure based upon a person's criminal record, but a license may still be denied under agency rules based on the time elapsed since conviction or if the offense has "a direct bearing" on fitness or ability to perform the duties or responsibilities of the license. § 40-29-107(m)(3), (o). A certificate may be introduced as evidence of due care in any negligence action, and an employer may be held negligent only if the person, after being hired, demonstrates dangerousness, or is convicted of a felony. § 40-29-107(n).

A petition may be filed either in the circuit court of the county where the person resides or where the conviction was obtained and may be filed by persons with federal and out-of-state convictions. § 40-29-107(b). Filing fees are determined on a county-by-county basis and may be several hundred dollars. The petition must include a statement of the petitioner's criminal and employment history, references and endorsements, and a statement of why the petition should be granted. § 40-29-107(e). The district attorney general in the county of conviction and of the



petitioner’s current county of residence may submit filings and evidence in opposition to the petition, as may any victim of crimes by the petitioner. § 40-29-107(f), (g).

A petition may be granted only if the court finds that the petitioner “has sustained the character of a person of honesty, respectability, and veracity and is generally esteemed as such by the petitioner’s neighbors,” that granting the petition will materially assist the person in obtaining employment or occupational licensing; that the person has a substantial need for relief, and that granting relief will not “pose an unreasonable risk to the safety of the public or any individual.” The petitioner may appeal a decision to deny relief only as an abuse of discretion, and a certificate “shall be presumptively revoked if the person to whom the certificate of employability was issued is convicted of or pleads guilty to a felony offense committed subsequent to the issuance of the certificate of employability.” §§ 40-29-107(i), (k), (l).

Given the onerous applicable procedures, it is not surprising that an academic researcher recently found that Tennessee’s certificate is “very rarely used:” “Of the ninety-five counties in Tennessee, fifty-one of the clerks’ offices contacted by this researcher indicated that they were not aware of the certificate at all or incorrectly claimed that they did not have them in their county. Another twenty-two indicated that they were aware of them but had never seen one. Six indicated that a small number of certificates have been filed.” Cara Suvall, [Certifying Second Chances](#), 42 *Cardozo Law Review* 1175, 1200 (2021). In addition, the Tennessee Administrative Office of the Courts does not collect or track aggregate data on the number of certificate petitions filed, approved, or denied. *Id.*

[Return to Certificate Map.](#)

## VERMONT

Vermont offers two certificates, both based on the scheme adopted by the Uniform Law Commission: An Order of Limited Relief is available from the court at sentencing and relieves specific mandatory restrictions, while a Certificate of Restoration of Rights has a 5-year waiting period and relieves all remaining mandatory restrictions, in both cases allowing individualized consideration as to whether the underlying offense is “substantially related” to the opportunity. Vt. Stat. Ann. Tit. 13, §§ 8010, 8011. Those with federal or out-of-state convictions are eligible to apply for either form of relief. § 8009. Both the order and the certificate can be introduced as evidence of due care as a defense to negligence in hiring, renting, or otherwise “engaging in activity” the order or certificate holder. § 8014. To issue an order, the court must find that granting the petition will “materially assist” the individual in obtaining or maintaining employment, education, housing, public benefits, or occupational licensing, and that it will not “pose an unreasonable risk to the safety or welfare of the public or any individual.” § 8010(b). According to former CCRC President Richard Cassidy, who chaired the Drafting Committee of the Uniform Collateral Consequences of Conviction Act, 33 of the state’s most common crimes, including drug trafficking, are ineligible for either form of relief. § 8012(b). Richard Cassidy, [Time to revise Vermont’s consequences of conviction act](#), *VTDigger*, March 25, 2022.

In 2023, a student researcher\* conducted 34 interviews with court personnel, state’s attorneys, and public defenders’ offices across Vermont. Her research found that 13 of Vermont’s 14 state’s attorney offices had not received a petition for either the order or the certificate, while eight of the 14 county courts had never granted either one. Staff at the remaining 6 courts could not verify if

they had ever approved an order or a certificate. Contacting five county public defender's offices found that no office had assisted a client in receiving a certificate, with four offices admitting they had never heard of either certificate. The director of a reentry organization stated that they had not heard of these certificates but would be willing to file for one if asked.

[Return to Certificate Map.](#)

## WASHINGTON

Washington's Certificate of Restoration of Opportunity (CROP) was enacted in 2016 to assist justice-impacted individuals in obtaining occupational licenses by lifting statutory bars based on criminal history. Wash. Rev. Code § 9.97.010. With numerous exceptions, "no state, county, or municipal department, board, officer, or agency . . . may disqualify a qualified applicant, solely based on the applicant's criminal history, if the qualified applicant has obtained" a CROP. § 9.97.020. In 2021 the law was amended to give effect to a CROP for employment in assisted living facilities and long-term care facilities. However, a CROP has no effect on licensure for accountants, nurses and physicians, private investigators, bail bond agents, teachers, security guards, vulnerable adult care providers, and law enforcement. Wash. Rev. Code § 9.97.020.

Employers and housing providers are not required to consider a CROP in making hiring or rental decisions. However, if an employer/provider does hire or rent to someone with a CROP, then evidence of the employee/renter's crimes may not be entered into evidence in any action against the employer/provider for negligent or intentionally tortious conduct." § 9.97.020(3). CROPs are available to all except those convicted of Class A felonies and certain other serious violent and sexual offenses, after a graduated waiting period ranging from 1 to 5 years. Unlike in many other states where courts have discretion to issue certificates or to deny them, Washington courts must issue a CROP to applicants that qualify.

In 2023, a student researcher\* conducted 25 interviews with Washington state officials, court staff and staff of nonprofit and legal aid organizations, but only three interviewees had heard of CROPs (two of whom worked for the Washington State Patrol and were tasked with recordkeeping). This research was confirmed by a records request to the State Patrol: Between 2016 and 2022 Washington courts issued 138 CROPs, or roughly 20 certificates per year on average, while during this same period courts issued an average of 2,330 vacatur annually. It is understandable that CROP certificates are a significantly less popular form of record relief than "vacatur," given the far broader relief provided by vacatur (tantamount to expungement). Still, certificates are available earlier in time (maximum five years for the most serious eligible offenses, compared to ten years for vacatur), and could have substantial benefits as far as licensing is concerned.

[Return to Certificate Map.](#)