

CERTIFICATES OF RELIEF FROM DISABILITIES

(Source: Article 23 of the Correction Law)

Article 23 of the Correction Law is the statute that details “Discretionary Relief from Forfeitures and Disabilities Automatically Imposed by Law”

“SERIOUS OFFENSE” is described in section 265.00(17) of the penal law as:

“(b) any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar’s tools; criminal possession of stolen property 3rd; jostling; fraudulent accosting; that kind of loitering defined in subdivision 3 of section 240.35; (loitering in a public place for the purpose of engaging or soliciting another person to engage in deviate sexual intercourse or sexual behavior of a deviate nature); endangering the welfare of a child; the offenses described in article 235 (obscenity and disseminating indecent material to minors); issuing abortifacient articles; permitting prostitution; promoting prostitution 3rd; stalking 4th; stalking 3rd; the offenses defined in article 130 (sex offenses); the offenses defined in article 220 (controlled substances)”

1. When do I need a Certificate of Relief?

If you are at risk of losing your job, license or the right to engage in certain activities due to your conviction you need a Certificate of Relief to lawfully continue or to pursue those activities. If you have been convicted of no more than one felony and wish to have your rights restored you need a Certificate of Relief. If you have more than one felony conviction you are not eligible, unless they were handled in the same Court at the same time.

2. If I received Youthful Offender do I need a Certificate?

Youthful Offender is not a conviction so you do not need a Certificate.

3. What does a Certificate of Relief do?

A Certificate restores most of your rights that were lost because of a felony conviction. It does not allow you to hold public office and **it does not erase the conviction**. Also, a particular agency or authority can still deny you your rights based on further investigation. (ex: You will not automatically be granted a liquor license just because you have a Certificate of Relief. Also, a Certificate of Relief does not cancel or in any other way affect the automatic forfeiture of a felony DWI offender’s driver’s license.)

4. Who grants Certificates?

If you were sentenced to local time, Probation, conditional discharge, a fine or a combination of any of these, the Certificate will be issued by the Court where you were sentenced. If you are sentenced to a state correctional facility a Certificate would be issued by State Board of Parole. (see question # 11 for address)

5. When are Certificates issued and how do I apply?

If you are eligible and receiving a **revocable** sentence, and your attorney makes a request to the Court, a Certificate will be issued at the time of sentencing. If you are on Probation, your Officer can assist you with the paperwork. If you are no longer on Probation or did not receive Probation, the paperwork is available at the Probation Department. Probation will assist you in filling it out but it will be your responsibility to submit it to the Court that sentenced you with a letter of explanation as to why you want the Certificate. The Court may request an investigation be prepared by the Probation department before making a decision whether or not to grant the Certificate. **Applications are also available online at www.criminaljustice.ny.gov/opca in the FAQ’s section.**

6. If I was sentenced in one county but my Probation was transferred to another county to which court do I go?

If you were sentenced after September 1st, 2007 the jurisdiction in your case was automatically transferred to the supervising county and you should go there. Prior to that time it depends on whether or not the jurisdiction of your case was transferred. If it was transferred you would apply to the new county, if it was not transferred then you would go back to the sentencing county. Check with the last Probation department you were involved with to see which county holds jurisdiction.

7. Do I lose my right to vote if I am convicted of a felony?

You need a Certificate if you are sentenced to state prison and are placed on parole. If you are sentenced to straight time in a county jail you can re-register when you are released. If you receive intermittent (weekends) you must complete all of your weekends then you will be able to re-register. If you do not receive any jail time in connection with your felony conviction, your registration is not affected. If you receive jail time based on your felony conviction, your registration is automatically canceled and you must re-register in order to vote again.

8. Can I get a hunting license and carry guns if I get a Certificate of Relief?

The New York State Penal Law section 265.20 states a person must be in possession of a **Certificate of Good Conduct** to legally possess a firearm if they have been convicted of a felony or serious offense. The National Instant Criminal Background Check System(NICS) at the Federal level requires a **Certificate of Good Conduct**, as it is specified in the Penal Law, in order to purchase firearms. It does not specifically address the possession of previously owned firearms. They have indicated an individual must be eligible to possess both long guns and handguns without any restrictions as to purpose, place or usage. In order to be able to purchase a long gun someone must obtain both an **unrestricted** Certificate of Relief from Disabilities and a Certificate of Good Conduct. There has been much discussion regarding allowing people to have their rights restored through a Certificate of Relief only. However, at this time the law has not been changed and a **Certificate of Good Conduct** is sometimes required. Also, be advised effective 1/30/12, you may no longer use or possess black powder guns or muzzle loaders without the appropriate certificate.

9. Can I serve on jury duty if I get a Certificate of Relief?

If you are granted a Certificate of Relief and/or a Certificate of Good Conduct you may be considered for jury duty.

10. For how long is a Certificate good?

A Certificate is considered to be temporary if you are on Probation or a Conditional Discharge at the time the Certificate is issued. It automatically becomes permanent if you successfully complete Probation/Conditional Discharge. If you are on Probation and are violated the Certificate may be revoked at the discretion of the Judge. However, if you are re-sentenced to the State Department of Corrections the Certificate of Relief is automatically revoked. If you are granted a permanent Certificate it will remain in effect unless you are convicted of another felony. After another felony conviction it is automatically considered null and void.

11. What can I do if I have more than one felony conviction?

You can apply for a Certificate of Good Conduct. This is granted by the State Board of Parole whether or not you were in state prison or on Parole. There is a waiting period since your last conviction. If the most serious crime you were convicted of was a "C", "D", or "E" felony you must wait at least three years from the date of your last conviction or release from state incarceration. If your most serious crime was a "B" or "A" felony you must wait at least five years. A misdemeanor may be considered and would require a one year waiting period. The felony waiting period is mandatory.

Applying for a Certificate of Good Conduct

Once the required waiting period is over you can write for an application to:

Certificate Review Unit
New York State Division of Parole
97 Central Avenue
Albany, NY 12206

You will be mailed an application that is several pages long. You must fill it out to the best of your ability, have it notarized and return it. If you have worked in the last three years you will have to provide proof that you have paid income taxes. The review unit will look over your application to make sure you are eligible and then assign it to a Parole Officer to conduct an investigation and make a recommendation to the Board. The Parole Officer will want to meet with you at your home. It takes several months to obtain a decision. If you need one quickly you should explain in a letter along with your application. However, there is no guarantee of quicker processing. **The application, as well as information regarding a Parole issued Certificate of Relief, is also available online at www.parole.ny.gov**

updated 8/22/12

