

NEW YORK
CITY BAR

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**REPORT ON LEGISLATION BY THE
CORRECTIONS COMMITTEE¹**

**A.3664-B
S.4366-B**

**M. of A. Aubry
Sen. Hassell-Thompson**

Harmonizes various provisions of law with Article 23 of the Corrections Law by ensuring both certificates of relief from disability and certificates of good conduct remove statutory barriers to the employment and licensure of people with criminal records.

THIS BILL IS APPROVED

The Corrections Committee of the New York City Bar Association supports Assembly Bill 3664-B and Senate Bill 4366-B. This legislation transmits the mandate of Corrections Law Article 23 by ensuring that *either* a certificate of relief from disabilities (“CRD”) *or* a certificate of good conduct (“CGC”) will serve to remove statutory barriers to the licensure and employment of people with criminal records. With the lifting of these automatic barriers, licensing agencies will then evaluate each applicant’s fitness on an individual basis. This legislation fulfills the dual goals of clarifying state law and, more importantly, reducing recidivism by promoting the employment of people with criminal histories.

Over one hundred occupations in New York require a license.² More than half of these – such as bus driver, barber, and unarmed security guard - pay well and are accessible to those who lack a college degree, but they are unavailable by law to people with criminal records.³ Article 23 of the Corrections Law was enacted to create a mechanism by which such individuals, having demonstrated rehabilitation, could bypass these automatic bars and gain licensure like anyone without a disqualifying conviction.⁴ Unfortunately, these barriers are spread throughout state law, and - besides making the collateral consequences of a criminal conviction difficult to ascertain - they implement Article 23 inconsistently: some laws refer either to CRDs or to CGCs, but not both. The instant legislation fixes this irregularity.

This fix is important because every individual with a criminal record is only eligible for one type of certificate, depending on the scope of that record. CRDs may be earned by people with one felony conviction; people with more than one felony conviction must apply for a CGC.⁵ To

¹ This report has been revised and reissued to reflect amendments made to the bill.

² See *generally* Legal Action Center, New York State Occupational Licensing Survey (2006), <http://www.hirenetwork.org/pdfs/Occupational%20Licensing%20Survey%202006.pdf>.

³ *Id.*

⁴ N.Y. Correct. Law § 701(1) (2007) (CRDs); § 703-a(1) (CGCs).

⁵ 700(1)(a).

obtain either certificate, however, an individual must demonstrate the same standard of rehabilitation before – depending on the certificate sought – a criminal court judge⁶ or the Board of Parole.⁷

If the state statutes to be amended here were interpreted literally, as some now are by the respective licensing agencies, they would exclude an entire segment of the population who had otherwise demonstrated rehabilitation. For example, some licensing statutes only mention CGCs. If someone with a CRD wanted this license, he or she would have to commit another felony to become eligible for a CGC. Certainly this makes no sense. By amending these laws, the legislature recognizes this irrational result and heads off potential litigation should a state agency ever refuse the application of someone with a CRD.

Since persons with either certificate have already demonstrated rehabilitation, this legislation raises no public safety concerns. Indeed, this legislation reduces recidivism by helping people qualify for employment and encourages the rehabilitation of people with criminal histories, both stated New York public policy goals.⁸

For the foregoing reasons, the Corrections Committee strongly recommends enactment of this legislation.

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⁶ 702(2).

⁷ 703(3).

⁸ See N.Y. Correct. Law § 753(1)(a); N.Y. Penal Law § 1.05(6) (“(T)o ensure the public safety by . . . the rehabilitation of those convicted (and) the promotion of their successful and productive reentry and reintegration into society. . . .”).