

Chapter 2961: DISFRANCHISED CONVICTS; HABITUAL CRIMINALS

2961.01 Forfeiture of rights and privileges by convicted felons.

(A)(1) A person who pleads guilty to a felony under the laws of this or any other state or the United States and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony under any law of that type is returned, unless the plea, verdict, or finding is reversed or annulled, is incompetent to be an elector or juror or to hold an office of honor, trust, or profit.

(2) When any person who under division (A)(1) of this section is incompetent to be an elector or juror or to hold an office of honor, trust, or profit is granted parole, judicial release, or a conditional pardon or is released under a non-jail community control sanction or a post-release control sanction, the person is competent to be an elector during the period of community control, parole, post-release control, or release or until the conditions of the pardon have been performed or have transpired and is competent to be an elector thereafter following final discharge. The full pardon of a person who under division (A)(1) of this section is incompetent to be an elector or juror or to hold an office of honor, trust, or profit restores the rights and privileges so forfeited under division (A)(1) of this section, but a pardon shall not release the person from the costs of a conviction in this state, unless so specified.

(B) A person who pleads guilty to a felony under laws of this state or any other state or the United States and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony under any law of that type is returned is incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.

(C) As used in this section:

(1) "Community control sanction" has the same meaning as in section [2929.01](#) of the Revised Code.

(2) "Non-jail community control sanction" means a community control sanction that is neither a term in a community-based correctional facility nor a term in a jail.

(3) "Post-release control" and "post-release control sanction" have the same meanings as in section [2967.01](#) of the Revised Code.

Effective Date: 01-01-2004; 05-02-2006; 2008 HB195 09-30-2008

2961.02 Person convicted of certain offenses may not serve as public official or employee.

(A) As used in this section:

(1) "Disqualifying offense" means an offense that has both of the following characteristics:

(a) It is one of the following:

(i) A theft offense that is a felony;

(ii) A felony under the laws of this state, another state, or the United States, that is not covered by division (A)(1)(a)(i) of this section and that involves fraud, deceit, or theft.

(b) It is an offense for which the laws of this state, another state, or the United States do not otherwise

contain a provision specifying permanent disqualification, or disqualification for a specified period, from holding a public office or position of public employment, or from serving as an unpaid volunteer, as a result of conviction of the offense, including, but not limited to, a provision such as that in division (C)(1) of section [2921.41](#) of the Revised Code.

(2) "Political subdivision" has the same meaning as in section [2744.01](#) of the Revised Code.

(3) "Private entity" includes an individual, corporation, limited liability company, business trust, estate, trust, partnership, or association that receives any funds from a state agency or political subdivision to perform an activity on behalf of the state agency or political subdivision.

(4) "State agency" has the same meaning as in section [1.60](#) of the Revised Code.

(5) "Theft offense" has the same meaning as in section [2913.01](#) of the Revised Code.

(6) "Volunteer" means a person who serves as a volunteer without compensation with a state agency or political subdivision or who serves as a volunteer without compensation with a private entity, including, but not limited to, an uncompensated auxiliary police officer, auxiliary deputy sheriff, or volunteer firefighter.

(B) Any person who pleads guilty to a disqualifying offense and whose plea is accepted by the court or any person against whom a verdict or finding of guilt for committing a disqualifying offense is returned is incompetent to hold a public office or position of public employment or to serve as a volunteer, if holding the public office or position of public employment or serving as the volunteer involves substantial management or control over the property of a state agency, political subdivision, or private entity.

(C) Division (B) of this section does not apply if a plea, verdict, or finding of the type described in that division regarding a disqualifying offense is reversed, expunged, or annulled. The full pardon of a person who has pleaded guilty to a disqualifying offense and whose plea was accepted by the court or a person against whom a verdict or finding of guilt for committing a disqualifying offense was returned restores the privileges forfeited under division (B) of this section, but the pardon does not release the person from the costs of the person's conviction in this state, unless so specified.

Effective Date: 05-18-2005; 2008 HB195 09-30-2008

2961.03 Revocation and cancellation of license upon conviction of certain crimes.

Whenever a person engaged in business as a secondhand dealer, junk dealer, transient dealer, peddler, itinerant vendor, or pawnbroker, under a license issued under any law of this state or under any ordinance of a municipal corporation, is convicted and sentenced for knowingly and fraudulently buying, receiving, or concealing goods or property which has been stolen, taken by robbers, embezzled, or obtained by false pretenses, such judgment of conviction, in addition to the other penalties provided by law for such offense, acts as a cancellation and revocation of such license to conduct such business, and the court in which such conviction was had shall forthwith certify to the authority which issued such license, the fact of such conviction. A person who has been so convicted and whose license has been canceled or revoked, shall not again be licensed to engage in such business, or any of the businesses enumerated in this section, unless such person is pardoned by the governor.

Effective Date: 10-01-1953

2961.11 to 2961.13 [Repealed].

Effective Date: 01-01-1974

2961.21 Definitions regarding application for certificate of achievement and employability.

As used in sections 2961.21 to 2961.24 of the Revised Code:

(A)(1) "Discretionary civil impact" means any section of the Revised Code or the Administrative Code that creates a penalty, disability, or disadvantage, however denominated, to which all of the following apply:

(a) It is triggered in whole or in part by a person's conviction of an offense, whether or not the penalty, disability, or disadvantage is included in the judgment or sentence.

(b) It is imposed on a person, licensing agency, or employer.

(c) It permits, but does not require, that the person with the conviction record have a license denied or revoked, permits an agency to deny or revoke a license or certification to the person with the conviction record or business, or permits a business to refuse to employ the person with the conviction record.

(2) "Discretionary civil impact" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(B) "Eligible prisoner" means any of the following:

(1) A prisoner who is serving a prison term in a state correctional institution and who satisfies all of the criteria specified in division (A)(1) of section 2961.22 of the Revised Code to be eligible to apply to the department of rehabilitation and correction or the sentencing court for a certificate of achievement and employability;

(2) A prisoner who has been released from a state correctional institution, who is under supervision on parole or under a post-release control sanction, and who satisfies all of the criteria specified in division (A)(1) of section 2961.22 of the Revised Code to be eligible to apply to the adult parole authority for a certificate of achievement and employability.

(C) "Licensing agency" means any of the following:

(1) Any agency identified as a "licensing agency" under section 4776.01 of the Revised Code.

(2) Any regulatory or licensing board or agency not included in division (C)(1) of this section that has the administrative authority to issue, suspend, or revoke any professional license or certification or any license or certification that enables a person or entity to engage in any profession or occupation to attain a specified status or position.

(D)(1) "Mandatory civil impact" means any section of the Revised Code or the Administrative Code that creates a penalty, disability, or disadvantage, however denominated, to which all of the following apply:

(a) It is triggered automatically solely by a person's conviction of an offense, whether or not the penalty, disability, or disadvantage is included in the judgment or sentence.

(b) It is imposed on a person, licensing agency, or employer.

(c) It precludes the person with the criminal record from maintaining or obtaining licensure or employment, precludes the agency from issuing a license or certification to the person with the criminal record or business, or precludes a business from being certified or from employing the person with the criminal record.

(2) "Mandatory civil impact" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

Added by 129th General Assembly File No. 29, HB 86, § 1, eff. 9/30/2011.

2961.22 Application for certificate of achievement and employability.

(A)(1) Any prisoner serving a prison term in a state correctional institution who satisfies all of the following is eligible to apply to the department of rehabilitation and correction at a time specified in division (A)(2) of this section and in accordance with division (D) of this section for a certificate of achievement and employability:

(a) The prisoner has satisfactorily completed one or more in-prison vocational programs approved by rule by the department of rehabilitation and correction.

(b) The prisoner has demonstrated exemplary performance as determined by completion of one or more cognitive or behavioral improvement programs approved by rule by the department while incarcerated in a state correctional institution, while under supervision, or during both periods of time.

(c) The prisoner has completed community service hours.

(d) The prisoner shows other evidence of achievement and rehabilitation while under the jurisdiction of the department.

(2) An eligible prisoner may apply to the department of rehabilitation and correction under division (A)(1) of this section for a certificate of achievement and employability no earlier than one year prior to the date scheduled for the release of the prisoner from department custody and no later than the date of release of the prisoner.

(B)(1) Any prisoner who has been released from a state correctional institution, who is under supervision on parole or under a post-release control sanction, and who satisfies all of the criteria set forth in division (A)(1) of this section is eligible to apply to the adult parole authority at a time specified in division (B)(2) of this section and in accordance with division (D) of this section for a certificate of achievement and employability.

(2) An eligible prisoner may apply to the adult parole authority under division (B)(1) of this section for a certificate of achievement and employability at any time while the prisoner is under supervision on parole or under a post-release control sanction.

(C)(1) An eligible prisoner may apply to the department of rehabilitation and correction or to the adult parole authority at a time specified in division (A) or (B) of this section, whichever is applicable, for a certificate of achievement and employability that grants the prisoner relief from one or more mandatory civil impacts that would affect a potential job within a field in which the prisoner trained as part of the prisoner's in-prison vocational program. The prisoner shall specify the mandatory civil impacts from which the prisoner is requesting relief under the certificate. Upon application by a prisoner in accordance with this division, if the mandatory civil impact of any licensing agency would be affected by the issuance of the certificate to the prisoner, the department or authority shall notify the licensing agency of the filing of the application, provide the licensing agency with a copy of the application and all evidence that the department, authority, or court has regarding the prisoner, and afford the licensing agency with an opportunity to object in writing to the issuance of the certificate to the prisoner.

(2) Upon application by a prisoner in accordance with division (C)(1) of this section, the department of rehabilitation and correction or the adult parole authority, whichever is applicable, shall consider the application and all objections to the issuance of a certificate of achievement and employability to the prisoner, if any, that were made by a licensing agency under division (C)(1) of this section. If the department or authority determines that the prisoner is an eligible prisoner, that the application was filed at a time specified in division (B) of this section, and that any licensing agency objections to the issuance of the

certificate to the prisoner are not sufficient to deny the issuance of the certificate to the prisoner, subject to division (C)(3) of this section, the department or authority shall issue the prisoner a certificate of achievement and employability that grants the prisoner relief from the mandatory civil impacts that are specified in the prisoner's application and that would affect a potential job within a field in which the prisoner trained as part of the prisoner's in-prison vocational program.

(3) The mandatory civil impacts identified in division (A)(1) of section 2961.01 and in division (B) of section 2961.02 of the Revised Code shall not be affected by any certificate of achievement and employability issued under this section. No certificate of achievement and employability issued to a prisoner under this section grants the prisoner relief from the mandatory civil impacts identified in division (A)(1) of section 2961.01 and in division (B) of section 2961.02 of the Revised Code.

(E) The department of rehabilitation and correction shall adopt rules that define in-prison vocational programs and cognitive or behavioral improvement programs that a prisoner may complete to satisfy the criteria described in divisions (A)(1)(a) and (b) of this section.

Added by 129th General Assembly File No. 29, HB 86, § 1, eff. 9/30/2011.

2961.23 Individualized consideration; civil liability.

(A)(1) If a person who has been issued a certificate of achievement and employability under section 2961.22 of the Revised Code applies to a licensing agency for a license or certificate and the person has a conviction or guilty plea that otherwise would bar licensure or certification for the person because of a mandatory civil impact, the agency shall give the person individualized consideration for the license or certification, notwithstanding the mandatory civil impact, the mandatory civil impact shall be considered for all purposes to be a discretionary civil impact, and the certificate 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. Notwithstanding the presumption established under this division, the agency may deny the license or certification for the person if it determines that the person is unfit for issuance of the license.

(2) If an employer that has hired a person who has been issued a certificate of achievement and employability under section 2961.22 of the Revised Code applies to a licensing agency for a license or certification and the person has a conviction or guilty plea that otherwise would bar the person's employment with the employer or licensure for the employer because of a mandatory civil impact, the agency shall give the person individualized consideration, notwithstanding the mandatory civil impact, the mandatory civil impact shall be considered for all purposes to be a discretionary civil impact, and the certificate constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the employment, or that the employer is unfit for the license or certification, in question. Notwithstanding the presumption established under this division, the agency may deny the license or certification for the employer if it determines that the person is unfit for the employment or that the employer is unfit for the license or certification.

(B) If an employer hires a person who has been issued a certificate of achievement and employability under section 2961.22 of the Revised Code and if the person presents the employer with a copy of the certificate, all of the following apply:

(1) If a subsequent civil action against the employer alleges that the employer was negligent in hiring the person and if the civil action includes as an element of the alleged negligence that the employer had actual or constructive knowledge of the incompetence or dangerousness of the person, 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.

(2) If the person, after being hired, subsequently demonstrates dangerousness and if the employer retains

the person as an employee after the demonstration of dangerousness, the employer may be held liable in a civil action that is based on or relates to the retention of the person as an employee only if it is proved by a preponderance of the evidence that the person having hiring and firing responsibility for the employer had actual knowledge that the employee was dangerous and was willful in retaining the person as an employee after the demonstration of dangerousness of which the person had actual knowledge.

Added by 129th General Assembly File No. 29, HB 86, § 1, eff. 9/30/2011.

2961.24 Rules and regulations.

The department of rehabilitation and correction shall adopt rules that specify standards and criteria for the revocation of a certificate of achievement and employability issued under section 2961.22 of the Revised Code. The rules shall require revocation of a certificate that has been issued to a person if the person is convicted of or pleads guilty to any offense other than a minor misdemeanor or a traffic offense. The rules shall not provide for revocation of a certificate that has been issued to a person based on a violation of a condition of conditional pardon, parole, other form of authorized release, transitional control, or post-release control under section 2967.15 of the Revised Code that is not also a criminal offense under any other section of the Revised Code.

Added by 129th General Assembly File No. 29, HB 86, § 1, eff. 9/30/2011.