

# The Need to Amend Ohio's Certificate of Qualification for Employment



## DRUG ENFORCEMENT AND POLICY CENTER

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## INTRODUCTION

Portions of Ohio's Certificate of Qualification for Employment (CQE) statute (Revised Code Section 2953.25) are inconsistent with established policies and practices, cause unnecessary delays, and unnecessarily increase the financial costs associated with the processing of this mechanism. Proposed amendments, and reasons for proposed amendments, are presented below.<sup>1</sup>

## AMENDMENTS TO DIVISION (A)(1)

### Text of Division (A)(1)

(A) As used in this section:

(1) "Collateral sanction" means a penalty, disability, or disadvantage that is related to employment or occupational licensing, however denominated, as a result of the individual's conviction of or plea of guilty to an offense and that applies by operation of law in this state whether or not the penalty, disability, or disadvantage is included in the sentence or judgment imposed.

"Collateral sanction" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

### The Need to Recognize an Expanded Definition of a Collateral Sanction in Division (A)(1)

There is a conflict across Ohio courts and Ohio agencies about the interpretation of division (A)(1) and the definition of a collateral sanction. Some Ohio courts have narrowly interpreted division (A)(1) and emphasized the portion defining a collateral sanction as one that "applies by operation of law in this state."<sup>2</sup> Such an interpretation means that collateral sanctions must be codified in Ohio law to be considered qualifying collateral sanctions within the CQE statute, and that applicants must specifically identify the Ohio law that creates their collateral sanction in their CQE petition.

However, the Ohio Department of Rehabilitation and Correction, the entity who is largely tasked with overseeing the CQE process, notes on their CQE website that a CQE can be used for "general employment" purposes.<sup>3</sup> In official CQE reports from the Department of Rehabilitation and Correction, warehouse and manufacturing positions are given as examples of general employment.<sup>4</sup> Importantly, warehouse and manufacturing positions are quite unlikely to have codified collateral

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<sup>1</sup> Amendments to divisions (A) and (C) also impact division (F). While reasoning for amendments to division (F) are not presented, the amendments are made in the proposed amendments section of this paper. Note that Senate Bill 288 from the 134<sup>th</sup> Ohio General Assembly enacted minor changes to the fee language in the CQE statute, but do not alter any recommendations in this proposal.

<sup>2</sup> See IN RE TANKSLEY, 2016 Ohio 7068 - Ohio: Court of Appeals, 10th Appellate Dist. 2016.

<sup>3</sup> See <https://drc.ohio.gov/cqe>.

<sup>4</sup> See <https://drc.ohio.gov/Portals/0/2021%20CQE%20Annual%20Report.pdf>.

sanctions. Also important to the discussion here, 2014 and 2015 CQE Annual Reports (the last reports displaying percentages of applications by employment type) showed that a large majority of applications were for general employment purposes.<sup>5</sup>

While a plain reading of division (A)(1) leads one to conclude that collateral sanctions must be codified in Ohio law to be considered qualifying collateral sanctions, such a narrow reading does not fit with the practices and interpretations of the Ohio Department of Rehabilitation and Correction that have been followed since the introduction of the CQE.<sup>6</sup> Further, an expanded reading of collateral sanction would recognize the actual wide-reaching and impactful consequences of a criminal conviction in employment.<sup>7</sup> Finally, given that collateral sanction is currently interpreted broadly by the Ohio Department of Rehabilitation and Correction, the Department and courts should not be overly burdened with increased CQE reviews.

## AMENDMENTS TO DIVISIONS (B)(1) AND (B)(2)

If an expanded definition of collateral sanction is adopted, additional changes to divisions (B)(1) and (B)(2) may be required. Two approaches are discussed. In the first approach, any provisions requiring courts to determine the presence of a collateral sanction would be eliminated. Given the above-cited research showing the consistent negative impact of criminal history on employment, a reasonable approach for courts would be to assume the presence of an employment collateral sanction for those that have criminal history. Additionally, eliminating requirements for courts to determine the presence of a collateral sanction would also reduce the time that courts and other decisionmakers spend reviewing CQE petitions, thus lowering costs associated with such reviews. Relatedly, applicants will be able to complete CQE applications more quickly, thus reducing wait times for the target population to receive this mechanism. Finally, this approach would be consistent with the Ohio Department of Rehabilitation and Correction's interpretation of collateral sanction, given the department's language that CQEs can be used for general employment (i.e., positions that likely do not have codified collateral sanctions).

In the second approach, requirements to demonstrate a codified collateral sanction could be retained. However, applicants would be able to satisfy this requirement by showing that they possess criminal history that cannot be sealed or expunged pursuant to any sections of Ohio Revised Code Chapter 2953, and that Ohio Revised Code Section 2953.33 (2953.34 after the enactment of Senate Bill 288) permits employers to consider criminal history that is not sealed. Additionally, applicants with sealed convictions would still be able to seek CQE approval by pointing to specific Ohio laws that allow (or may allow)<sup>8</sup> employer consideration of sealed convictions in their respective occupation. This approach would also be consistent with the Ohio Department of Rehabilitation and Correction's interpretation of collateral sanction, again given the department's language that CQEs can be used for general employment (i.e., positions that likely do not have associated collateral sanctions). If the second approach is adopted, an additional factor must be considered. The current language of divisions (B)(1) and (B)(2) state that "[a]n individual who *is* subject to one or more collateral sanctions . . . may file a petition . . ."<sup>9</sup> Because the language utilizes "is", some courts may interpret these divisions to mean that an applicant must be currently impacted by a collateral sanction. However, this is not a necessary interpretation or one that produces sound policy. While an individual's criminal history may not impact a position or career that an applicant may be pursuing during the time of application, it is entirely reasonable and likely probable that their criminal history may impact future position or career opportunities. It is reasonable to assume that granting a CQE for collateral sanctions that may arise in the future would fit well within the overall objective of the CQE statute. Additionally, it is important to note that some courts have included language in their CQE approval judgement entries stating that a CQE could be used for all future employment opportunities. Therefore, should the second approach be favored, the language in divisions (B)(1) and (B)(2) should be changed from "is" to "is, or may be."

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<sup>5</sup> See [https://drc.ohio.gov/Portals/0/CQE/CQE\\_annualreview2014.pdf?ver=2016-09-14-164319-693](https://drc.ohio.gov/Portals/0/CQE/CQE_annualreview2014.pdf?ver=2016-09-14-164319-693); [https://drc.ohio.gov/Portals/0/CQE/CQE\\_annualreview2015.pdf?ver=2016-09-14-164320-253](https://drc.ohio.gov/Portals/0/CQE/CQE_annualreview2015.pdf?ver=2016-09-14-164320-253).

<sup>6</sup> It is also important to note that Ohio Revised Code Section 2953.25 (J) specifically gives the division of parole and community services the authority to adopt rules for the implementation and administration of the CQE statute (subject to Chapter 119).

<sup>7</sup> See Ahmed, A. M., & Lång, E. (2017). The employability of ex-offenders: a field experiment in the Swedish labor market. *IZA journal of Labor Policy*, 6(1), 1-23 and Holzer, H. J. (2007). *Collateral Costs: The Effects of Incarceration on the Employment and Earnings of Young Workers*, detailing studies showing the impact of criminal records on employment outcomes.

<sup>8</sup> See Ohio Revised Code Section 2953.33 (B)(1). Individuals with sealed convictions may be questioned by employers when their sealed convictions bear a direct and substantial relationship to the position they are seeking.

<sup>9</sup> Emphasis added.

## AMENDMENTS TO DIVISION (C)(3)

### Text of Division (C)(3)

Division (C)(3) requires that judges find by a preponderance of the evidence that (a) Granting the petition will materially assist the individual in obtaining employment or occupational licensing; (b) The individual has a substantial need for the relief requested in order to live a law-abiding life; (c) Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

### The Need to Eliminate Divisions (C)(3)(a) and (C)(3)(b)

Division (C)(3)(a) places applicants and judges in the position to prove (applicant) or determine (judge) whether a CQE will materially assist an individual in obtaining employment or occupational licensing. Essentially, this subdivision asks applicants and judges to prove or determine that a CQE will be an effective rights restoration mechanism in a particular applicant's case. While such a requirement could be reasonable for applicants who intend to use the CQE to remove an automatic licensing barrier (given that the CQE is specifically designed to do so)<sup>10</sup>, the Ohio Department of Rehabilitation and Correction has also stated that a CQE can be used for general employment (employment not requiring a license).<sup>11</sup> Requiring applicants to prove and judges to determine that a CQE will be an effective mechanism for improving general employment opportunities is unreasonable as it places these parties in a position to prove and determine the empirical efficacy of the CQE in a particular applicant's case. Without empirical research that examines the impact of a CQE for a particular applicant, it is nearly impossible for an applicant or judge to prove or determine that a CQE will materially assist a particular applicant with any degree of certainty (this is especially true given that scholarly research has not reached a consensus on the effectiveness of a CQE for improving general employment opportunities). Nonetheless, it is reasonable to imagine that negligent hiring immunity and the overall stamp of good character following CQE approval would be seen as a positive for the vast majority (if not all) of employers when comparing a person possessing a criminal record with a person possessing the same criminal record and a CQE, especially because safety concerns are often cited as a reason for not hiring those with criminal history. Also important to this discussion, the Ohio Legislature amended the CQE statute to include a rebuttable presumption that individuals with felonies and at least 3 years of time clean and individuals with misdemeanors and at least 1 year of time clean should be presumed eligible unless a court finds by clear and convincing evidence that the applicant has not been rehabilitated (Ohio Revised Code 2953.25 (C)(5), (C)(6)). In other words, a court need not consider (C)(3)(a) for individuals with expanded time clean requirements. Such an amendment reinforces that the focus of CQE reviews should be safety and not the factors noted in (C)(3)(a). Therefore, rather than requiring applicants and judges to simply guess whether a CQE will materially assist an employment opportunity, this subdivision should be assumed for each applicant (given negligent hiring immunity and the overall stamp of good character), and thus eliminated.

Division (C)(3)(b) serves little to no purpose in practice and places applicants in an unreasonable and belittling position. This subdivision essentially asks an applicant to prove that without a CQE, they would likely violate the law (in essence, a threat of future criminal behavior unless the CQE is granted). Asking applicants to prove this is simply absurd. All individuals are bound by the law, whether or not they are granted a CQE.<sup>12</sup> An applicant should not be denied CQE relief because they are determined to live a law-abiding life with or without a CQE. As Ohio courts have noted, rights restoration mechanisms in R.C. chapter 2953 are privileges, not rights.<sup>13</sup> Privileges are generally earned, and the CQE should be awarded as such. A CQE should be considered earned if a court determines that an individual has met the respective time-clean requirement and also determines that the applicant is not a safety risk. Additionally, Ohio courts have shown that this subdivision is given little attention. For example, in the case *In re Bailey* (28 NE 3d 578 – Ohio Court of Appeals 8th Appellate Dist. 2015), the court found this subdivision satisfied when the applicant simply stated that she had “a substantial need for the relief requested in order to live a law-abiding life.” Such a result shows how little courts weigh this particular subdivision, given that the applicant essentially restated the statutory language and provided no additional facts in support. Also important to this discussion, the Ohio Legislature amended the CQE statute to include a rebuttable presumption that individuals with felonies and at least 3

<sup>10</sup> However, see *In re Buzzell*, 2020 Ohio 4242 - Ohio: Court of Appeals, 6th Appellate Dist. 2020. In this case, an Ohio court denied a CQE application in part because it determined that division (C)(3)(a) was not satisfied by a preponderance of the evidence (the applicant was seeking a CQE to work as a licensed social worker but had not yet secured a degree necessary for employment in the social work field).

<sup>11</sup> See <https://drc.ohio.gov/cqe>. Such an interpretation is also consistent with the language in the CQE statute, as the term employment is distinguished from licensing in several divisions (see (A)(1)).

<sup>12</sup> See *In re Bailey*, 28 NE 3d 578 - Ohio: Court of Appeals, 8th Appellate Dist. 2015 noting this point.

<sup>13</sup> *State v. Hamilton*, 75 Ohio St. 3d 636 - Ohio: Supreme Court 1996.

years of time clean and individuals with misdemeanors and at least 1 year of time clean should be presumed eligible unless a court finds by clear and convincing evidence that the applicant has not been rehabilitated (Ohio Revised Code 2953.25 (C)(5), (C)(6)). In other words, a court need not consider (C)(3)(b) for individuals with expanded time clean requirements. Such an amendment reinforces that the focus of CQE reviews should be safety and not the factors noted in (C)(3)(b). Therefore, this subdivision should be deleted given the absurd requirements placed upon applicants, the low utility of any answer thereof, and also in consideration of the time and resources that courts and related parties spend addressing this subdivision.

## PROPOSED AMENDMENTS<sup>14</sup>

### Section 2953.25 | Certificate of qualification for employment for persons subject to collateral sanctions.

(A) As used in this section:

(1) "Collateral sanction" means a penalty, disability, or disadvantage that is related to employment or occupational licensing, however denominated, as a result of the individual's conviction of or plea of guilty to an offense ~~and that applies by operation of law in this state~~ whether or not the penalty, disability, or disadvantage is included in the sentence or judgment imposed.

"Collateral sanction" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(2) "Decision-maker" includes, but is not limited to, the state acting through a department, agency, board, commission, or instrumentality established by the law of this state for the exercise of any function of government, a political subdivision, an educational institution, or a government contractor or subcontractor made subject to this section by contract, law, or ordinance.

(3) "Department-funded program" means a residential or nonresidential program that is not a term in a state correctional institution, that is funded in whole or part by the department of rehabilitation and correction, and that is imposed as a sanction for an offense, as part of a sanction that is imposed for an offense, or as a term or condition of any sanction that is imposed for an offense.

(4) "Designee" means the person designated by the deputy director of the division of parole and community services to perform the duties designated in division (B) of this section.

(5) "Division of parole and community services" means the division of parole and community services of the department of rehabilitation and correction.

(6) "Offense" means any felony or misdemeanor under the laws of this state.

(7) "Political subdivision" has the same meaning as in section 2969.21 of the Revised Code.

(8) "Discretionary civil impact," "licensing agency," and "mandatory civil impact" have the same meanings as in section 2961.21 of the Revised Code.

(B)(1) An individual who ~~is subject to one or more collateral sanctions~~ as a result of being convicted of or pleading guilty to an offense and who either has served a term in a state correctional institution for any offense or has spent time in a department-funded program for any offense may file a petition with the designee of the deputy director of the division of parole and community services for a certificate of qualification for employment.

(2) An individual who ~~is subject to one or more collateral sanctions~~ as a result of being convicted of or pleading guilty to an offense and who is not in a category described in division (B)(1) of this section may file for a certificate of qualification for employment by doing either of the following:

(a) In the case of an individual who resides in this state, filing a petition with the court of common pleas of the county in which the person resides or with the designee of the deputy director of the division of parole and community services;

(b) In the case of an individual who resides outside of this state, filing a petition with the court of common pleas of any county in which any conviction or plea of guilty from which the individual seeks relief was entered or with the designee of the deputy director of the division of parole and community services.

(3) A petition under division (B)(1) or (2) of this section shall be made on a copy of the form prescribed by the division of parole and community services under division (J) of this section, shall contain all of the information described in division (F) of this section, and, except as provided in division (B)(6) of this section, shall be accompanied by an application fee of fifty dollars.

(4)(a) Except as provided in division (B)(4)(b) of this section, an individual may *must* file a petition under division (B)(1) or (2) of this section at any time after the expiration of whichever of the following is applicable:

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<sup>14</sup> The proposed amendments utilize the approach that assumes the presence of collateral sanctions for those with criminal convictions.

(i) If the offense ~~that resulted in the collateral sanction~~ from which the individual seeks relief is a felony, at any time after the expiration of one year from the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at any time after the expiration of one year from the date of the individual's final release from all other sanctions imposed for that offense.

(ii) If the offense ~~that resulted in the collateral sanction~~ from which the individual seeks relief is a misdemeanor, at any time after the expiration of six months from the date of release of the individual from any period of incarceration in a local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at any time after the expiration of six months from the date of the final release of the individual from all sanctions imposed for that offense including any period of supervision.

(b) The department of rehabilitation and correction may establish criteria by rule adopted under Chapter 119. of the Revised Code that, if satisfied by an individual, would allow the individual to file a petition before the expiration of six months or one year from the date of final release, whichever is applicable under division (B)(4)(a) of this section.

(5)(a) A designee that receives a petition for a certificate of qualification for employment from an individual under division (B)(1) or (2) of this section shall review the petition to determine whether it is complete. If the petition is complete, the designee shall forward the petition, the application fee, and any other information the designee possesses that relates to the petition, to the court of common pleas of the county in which the individual resides if the individual submitting the petition resides in this state or, if the individual resides outside of this state, to the court of common pleas of the county in which the conviction or plea of guilty from which the individual seeks relief was entered.

(b) A court of common pleas that receives a petition for a certificate of qualification for employment from an individual under division (B)(2) of this section, or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section, shall attempt to determine all other courts in this state in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief. The court that receives or is forwarded the petition shall notify all other courts in this state that it determines under this division were courts in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief that the individual has filed the petition and that the court may send comments regarding the possible issuance of the certificate.

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B)(2) of this section shall notify the county's prosecuting attorney that the individual has filed the petition.

A court of common pleas that receives a petition for a certificate of qualification for employment under division (B)(2) of this section, or that is forwarded a petition for qualification under division (B)(5)(a) of this section may direct the clerk of court to process and record all notices required in or under this section. Except as provided in division (B)(6) of this section, the court shall pay thirty dollars of the application fee into the state treasury and twenty dollars of the application fee into the county general revenue fund.

(6) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B)(1) or (2) of this section, a court of common pleas or the designee of the deputy director of the division of parole and community services who receives the petition may waive all or part of the fifty-dollar filing fee for an applicant who is indigent. If an application fee is partially waived, the first twenty dollars of the fee that is collected shall be paid into the county general revenue fund. Any partial fee collected in excess of twenty dollars shall be paid into the state treasury.

(C)(1) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B)(2) of this section or being forwarded a petition for such a certificate under division (B)(5)(a) of this section, the court shall review the individual's petition, the individual's criminal history, except for information contained in any record that has been sealed under section 2953.32 of the Revised Code, all filings submitted by the prosecutor or by the victim in accordance with rules adopted by the division of parole and community services, the applicant's military service record, if applicable, and whether the applicant has an emotional, mental, or physical condition that is traceable to the applicant's military service in the armed forces of the United States and that was a contributing factor in the commission of the offense or offenses, and all other relevant evidence. The court may order any report, investigation, or disclosure by the individual that the court believes is necessary for the court to reach a decision on whether to approve the individual's petition for a certificate of qualification for employment, except that the court shall not require an individual to disclose information about any record sealed under section 2953.32 of the Revised Code.

(2) Upon receiving a petition for a certificate of qualification for employment filed by an individual under division (B)(2) of this section or being forwarded a petition for such a certificate under division (B)(5)(a) of this section, except as otherwise provided in this division, the court shall decide whether to issue the certificate within sixty days after the court receives or is forwarded the completed petition and all information requested for the court to make that decision. Upon request of the individual who filed the petition, the court may extend the sixty-day period specified in this division.

(3) Except as provided in division (C)(5) of this section and subject to division (C)(7) of this section, a court that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section may issue a certificate of qualification for employment, at the court's discretion, if the court finds that the individual has established all of the following by a preponderance of the evidence:

~~(a) Granting the petition will materially assist the individual in obtaining employment or occupational licensing.~~

~~(b) The individual has a substantial need for the relief requested in order to live a law-abiding life.~~

(ea) Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

(4) The submission of an incomplete petition by an individual shall not be grounds for the designee or court to deny the petition.

(5) Subject to division (C)(6) of this section, an individual is rebuttably presumed to be eligible for a certificate of qualification for employment if the court that receives the individual's petition under division (B)(2) of this section or that is forwarded a petition under division (B)(5)(a) of this section finds all of the following:

(a) The application was filed after the expiration of the applicable waiting period prescribed in division (B)(4) of this section;

(b) If the offense ~~that resulted in the collateral sanction~~ from which the individual seeks relief is a felony, at least three years have elapsed since the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at least three years have elapsed since the date of the individual's final release from all other sanctions imposed for that offense;

(c) If the offense ~~that resulted in the collateral sanction~~ from which the individual seeks relief is a misdemeanor, at least one year has elapsed since the date of release of the individual from any period of incarceration in a local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at least one year has elapsed since the date of the final release of the individual from all sanctions imposed for that offense including any period of supervision.

(6) An application that meets all of the requirements for the presumption under division (C)(5) of this section shall be denied only if the court that receives the petition finds that the evidence reviewed under division (C)(1) of this section rebuts the presumption of eligibility for issuance by establishing, by clear and convincing evidence, that the applicant has not been rehabilitated.

(7) A certificate of qualification for employment shall not create relief from any of the following collateral sanctions:

(a) Requirements imposed by Chapter 2950. of the Revised Code and rules adopted under sections 2950.13 and 2950.132 of the Revised Code;

(b) A driver's license, commercial driver's license, or probationary license suspension, cancellation, or revocation pursuant to section 4510.037, 4510.07, 4511.19, or 4511.191 of the Revised Code if the relief sought is available pursuant to section 4510.021 or division (B) of section 4510.13 of the Revised Code;

(c) Restrictions on employment as a prosecutor or law enforcement officer;

(d) The denial, ineligibility, or automatic suspension of a license that is imposed upon an individual applying for or holding a license as a health care professional under Title XLVII of the Revised Code if the individual is convicted of, pleads guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code, or is subject to treatment or intervention in lieu of conviction for a violation of section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, 2911.11, 2919.123, or 2919.124 of the Revised Code;



(e) The immediate suspension of a license, certificate, or evidence of registration that is imposed upon an individual holding a license as a health care professional under Title XLVII of the Revised Code pursuant to division (C) of section 3719.121 of the Revised Code;

(f) The denial or ineligibility for employment in a pain clinic under division (B)(4) of section 4729.552 of the Revised Code;

(g) The mandatory suspension of a license that is imposed on an individual applying for or holding a license as a health care professional under Title XLVII of the Revised Code pursuant to section 3123.43 of the Revised Code.

(8) If a court that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section denies the petition, the court shall provide written notice to the individual of the court's denial. The court may place conditions on the individual regarding the individual's filing of any subsequent petition for a certificate of qualification for employment. The written notice must notify the individual of any conditions placed on the individual's filing of a subsequent petition for a certificate of qualification for employment.

If a court of common pleas that receives an individual's petition for a certificate of qualification for employment under division (B)(2) of this section or that is forwarded a petition for such a certificate under division (B)(5)(a) of this section denies the petition, the individual may appeal the decision to the court of appeals only if the individual alleges that the denial was an abuse of discretion on the part of the court of common pleas.

(D)(1) A certificate of qualification for employment issued to an individual lifts the automatic bar of a collateral sanction, and a decision-maker shall consider on a case-by-case basis whether to grant or deny the issuance or restoration of an occupational license or an employment opportunity, notwithstanding the individual's possession of the certificate, without, however, reconsidering or rejecting any finding made by a designee or court under division (C)(3) of this section.

(2) The certificate constitutes 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. 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.

(3) If an employer that has hired a person who has been issued a certificate of qualification for employment 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.

(E) A certificate of qualification for employment does not grant the individual to whom the certificate was issued relief from the mandatory civil impacts identified in division (A)(1) of section 2961.01 or division (B) of section 2961.02 of the Revised Code.

(F) A petition for a certificate of qualification for employment filed by an individual under division (B)(1) or (2) of this section shall include all of the following:

(1) The individual's name, date of birth, and social security number;

(2) All aliases of the individual and all social security numbers associated with those aliases;

(3) The individual's residence address, including the city, county, and state of residence and zip code;

(4) The length of time that the individual has resided in the individual's current state of residence, expressed in years and months of residence;

~~(5) A general statement as to why the individual has filed the petition and how the certificate of qualification for employment would assist the individual;~~

~~(65) A summary of the individual's criminal history, except for information contained in any record that has been sealed under section 2953.32 of the Revised Code, with respect to each offense that is a disqualification from employment or licensing in an occupation or profession, including the years of each conviction or plea of guilty for each of those offenses;~~

(76) A summary of the individual's employment history, specifying the name of, and dates of employment with, each employer;

(87) Verifiable references and endorsements;

(98) The name of one or more immediate family members of the individual, or other persons with whom the individual has a close relationship, who support the individual's reentry plan;

(109) A summary of the reason the individual believes the certificate of qualification for employment should be granted;

(1110) Any other information required by rule by the department of rehabilitation and correction.

(G)(1) In a judicial or administrative proceeding alleging negligence or other fault, a certificate of qualification for employment issued to an individual under this section 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 certificate of qualification for employment was issued if the person knew of the certificate at the time of the alleged negligence or other fault.

(2) In any proceeding on a claim against an employer for negligent hiring, a certificate of qualification for employment issued to an individual under this section shall provide immunity for the employer as to the claim if the employer knew of the certificate at the time of the alleged negligence.

(3) If an employer hires an individual who has been issued a certificate of qualification for employment under this section, if the individual, after being hired, subsequently demonstrates dangerousness or is convicted of or pleads guilty to a felony, and if the employer retains the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea, the employer may be held liable in a civil action that is based on or relates to the retention of the individual 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 or had been convicted of or pleaded guilty to the felony and was willful in retaining the individual as an employee after the demonstration of dangerousness or the conviction or guilty plea of which the person has actual knowledge.

(H) A certificate of qualification for employment issued under this section shall be revoked if the individual to whom the certificate of qualification for employment was issued is convicted of or pleads guilty to a felony offense committed subsequent to the issuance of the certificate of qualification for employment. The department of rehabilitation and correction shall periodically review the certificates listed in the database described in division (K) of this section to identify those that are subject to revocation under this division. Upon identifying a certificate of qualification for employment that is subject to revocation, the department shall note in the database that the certificate has been revoked, the reason for revocation, and the effective date of revocation, which shall be the date of the conviction or plea of guilty subsequent to the issuance of the certificate.

(I) A designee's forwarding, or failure to forward, a petition for a certificate of qualification for employment to a court or a court's issuance, or failure to issue, a petition for a certificate of qualification for employment to an individual under division (B) of this section does not give rise to a claim for damages against the department of rehabilitation and correction or court.

(J) The division of parole and community services shall adopt rules in accordance with Chapter 119. of the Revised Code for the implementation and administration of this section and shall prescribe the form for the petition to be used under division (B)(1) or (2) of this section. The form for the petition shall include places for all of the information specified in division (F) of this section.

(K) The department of rehabilitation and correction shall maintain a database that identifies granted certificates and revoked certificates and tracks the number of certificates granted and revoked, the industries, occupations, and professions with respect to which the certificates have been most applicable, and the types of employers that have accepted the certificates. The department shall annually create a report that summarizes the information maintained in the database and shall make the report available to the public on its internet web site.