

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 132\*

Short Title: Restoration of Citizenship.

(Public)

Sponsors: Senators Allran; Forrester and Cochrane.

Referred to: Courts.

February 15, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO RESTORE THE LAW TO ITS STATE PRIOR TO 1971, SO THAT A  
3 PERSON DOES NOT HAVE CITIZENSHIP RESTORED BY COMPLETION OF  
4 SENTENCE, PROBATION, OR PAROLE, BUT INSTEAD MUST WAIT TWO  
5 YEARS AFTER DISCHARGE AND PROVE TO THE SUPERIOR COURT  
6 GOOD CHARACTER.

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 13 of the General Statutes reads as rewritten:

9 "CHAPTER 13.

10 "CITIZENSHIP RESTORED.

11 "ARTICLE 1.

12 "FELONIES COMMITTED PRIOR TO MARCH 1, 1994.

13 "§ 13-1. Restoration of citizenship.

14 Any person convicted of a crime, whereby the rights of citizenship are forfeited,  
15 shall have such rights automatically restored upon the occurrence of any one of the  
16 following conditions:

- 17 (1) The unconditional discharge of an inmate by the State Department of  
18 Correction or the North Carolina Department of Correction, of a  
19 probationer by the State Department of Correction, or of a parolee by  
20 the Department of Correction; or of a defendant under a suspended  
21 sentence by the court.
- 22 (2) The unconditional pardon of the offender.
- 23 (3) The satisfaction by the offender of all conditions of a conditional  
24 pardon.

1 (4) With regard to any person convicted of a crime against the United  
2 States, the unconditional discharge of such person by the agency of the  
3 United States having jurisdiction of such person, the unconditional  
4 pardon of such person or the satisfaction by such person of a  
5 conditional pardon.

6 (5) With regard to any person convicted of a crime in another state, the  
7 unconditional discharge of such person by the agency of that state  
8 having jurisdiction of such person, the unconditional pardon of such  
9 person or the satisfaction by such person of a conditional pardon.

10 **"§ 13-2. Issuance and filing of certificate or order of restoration.**

11 (a) The agency, department, or court having jurisdiction over the inmate,  
12 probationer, parolee or defendant at the time his rights of citizenship are restored under  
13 the provisions of G.S. 13-1(1) shall immediately issue a certificate or order in duplicate  
14 evidencing the offender's unconditional discharge and specifying the restoration of his  
15 rights of citizenship.

16 The original of such certificate or order shall be promptly transmitted to the clerk of  
17 the General Court of Justice in the county where the official record of the case from  
18 which the conviction arose is filed. The clerk shall then file the certificate or order  
19 without charge with the official record of the case.

20 (b) In the case of a person convicted of a crime against another state or the  
21 United States, whose rights to citizenship have been restored according to G.S. 13-1, the  
22 following provisions shall apply:

23 (1) It shall be the duty of the clerk of the court in the county where such  
24 person resides, upon a showing by such person or his representative  
25 that the conditions of G.S. 13-1 have been met, to issue the certificate  
26 evidencing the offender's unconditional discharge and specifying the  
27 restoration of his rights of citizenship. For purposes of this subsection,  
28 the fulfillment of the conditions of G.S. 13-1 shall be considered met  
29 upon the presentation to the clerk of any paper writing from the agency  
30 of any other state or of the United States which had jurisdiction over  
31 such person, which shows that the conditions of G.S. 13-1 have been  
32 met.

33 (2) The certificate described in subdivision (b)(1) shall be filed by the  
34 clerk of the General Court of Justice in the county in which such  
35 person resides.

36 The provisions of this subsection apply equally to conditional and unconditional  
37 pardons by the governor of any other state or by the President of the United States, as  
38 well as unconditional discharges by the agency of another state or of the United States  
39 having jurisdiction over said person.

40 **"§ 13-3. Issuance, service and filing of warrant of unconditional pardon.**

41 In the event the rights of citizenship are restored by an unconditional pardon as  
42 specified in G.S. 13-1(2), the Governor, under the provisions of G.S. 147-23, shall issue  
43 his warrant therefor specifying the restoration of rights of citizenship to the offender;  
44 and the officer to whom the Governor issues his warrant to effect the release of the

1 offender shall deliver a copy of the warrant to the offender under the provisions of G.S.  
2 147-25. The original warrant bearing the officer's return as specified in G.S. 147-25  
3 shall be filed by the clerk of the General Court of Justice without charge in the county  
4 where the official record of the case from which the conviction arose is filed.

5 **"§ 13-4. Endorsement of warrant, service and filing of conditional pardon.**

6 When the offender has satisfied all of the conditions of a conditional pardon, and his  
7 rights of citizenship have been restored under the provisions of G.S. 13-1(3), the  
8 Governor shall issue an endorsement to the original warrant which specified the  
9 conditions of the pardon. Such endorsement shall acknowledge that the offender has  
10 satisfied all of the conditions of the pardon.

11 The Governor shall then deliver the endorsement to the officer specified in G.S. 147-  
12 25 for service and delivery to the clerk. Service and delivery to the clerk and filing by  
13 the clerk shall be done in accordance with the provisions of G.S. 13-3 so that the  
14 endorsement reflecting satisfaction of all conditions of the pardon will be served and  
15 recorded as if it were a warrant of unconditional pardon.

16 **"§ 13-5. Applicability.**

17 This Article applies only to felonies committed prior to March 1, 1994.

18 **"ARTICLE 2.**

19 **"FELONIES COMMITTED ON OR AFTER MARCH 1, 1994.**

20 **"§ 13-6. Petition filed.**

21 Any person convicted of a felony, whereby the rights of citizenship are forfeited,  
22 desiring to be restored to the same, shall file his petition in the superior court, setting  
23 forth his conviction and the punishment inflicted, his place or places of residence, his  
24 occupation since his conviction, the meritorious causes which, in his opinion, entitle  
25 him to be restored to his forfeited rights, and that he has not before been restored to the  
26 lost rights of citizenship.

27 **"§ 13-7. When and where petition filed.**

28 At any time after the expiration of two years from the date of discharge of the  
29 petitioner, the petition may be filed in the superior court of the county in which the  
30 applicant is at the time of filing and has been for five years next preceding a bona fide  
31 resident, or in the superior court of the county where the indictment was found upon  
32 which the conviction took place; and in case the petitioner may have been convicted of  
33 a felony more than once, and indictments for the same may have been found in different  
34 counties, the petition shall be filed in the superior court of that county where the last  
35 indictment was found.

36 **"§ 13-8. Notice given.**

37 Upon filing the petition the clerk of court shall advertise the substance thereof, at the  
38 courthouse door of his county, for three months before the session when the petitioner  
39 proposes that it shall be heard.

40 **"§ 13-9. Hearing and evidence.**

41 The petition shall be heard by the judge at which hearing the court shall examine all  
42 proper testimony which may be offered, either by the petitioner as to the facts set forth  
43 in his petition or by anyone who may oppose the grant of his prayer. The petitioner  
44 shall also prove by five respectable witnesses, who have been acquainted with the

1 petitioner's character for three years next preceding the filing of his petition, that his  
2 character for truth and honesty during that time has been good; but no deposition shall  
3 be admissible for this purpose unless the petitioner has resided out of this State for three  
4 years next preceding the filing of the petition.

5 **"§ 13-10. Decree.**

6 At the hearing, the court, on being satisfied of the truth of the facts set forth in the  
7 petition, and on its being proved that the character of the applicant for truth and honesty  
8 is good, shall decree his restoration to the lost rights of citizenship, and the petitioner  
9 shall accordingly be restored thereto.

10 **"§ 13-11. Procedure in case of pardon or suspension of judgment.**

11 Any person convicted of any crime, whereby the rights of citizenship are forfeited,  
12 and the judgment of the court pronounced does not include imprisonment anywhere,  
13 and pardon has been granted by the Governor, or the court suspended judgment on  
14 payment of the costs, and the costs have been paid, such person may be restored to such  
15 forfeited rights of citizenship upon application, by petition, to the judge presiding at any  
16 session of the superior court held for the county in which the conviction was had, one  
17 year after such conviction. The petition shall set out the nature of the crime committed,  
18 the time of conviction, the judgment of the court, and that pardon has been granted by  
19 the Governor, and also that said crime was committed without felonious intent, and  
20 shall be verified by the oath of the applicant and accompanied by the affidavits of 10  
21 reputable citizens of the county, who shall state that they are well acquainted with the  
22 applicant and that in their opinion the crime was committed without felonious intent.  
23 No notice of the petition in such case shall be necessary, and no advertisement thereof  
24 be made, but the same shall be heard by the judge, upon its presentation, during a  
25 session of court; and if he is satisfied as to the truth of the matters set out in the petition  
26 and affidavits, he shall decree the applicant's restoration to the lost rights of citizenship,  
27 and the clerk shall spread the decree upon his minute docket: Provided, that in all cases  
28 where the court suspended judgment it shall not be necessary to allege or prove that  
29 pardon has been granted by the Governor, and in such cases the petition may be made  
30 and the forfeited rights of citizenship restored at any time after conviction.

31 **"§ 13-12. Restoration of rights of citizenship to persons committed to certain**  
32 **training schools.**

33 Any person convicted of any crime whereby any rights of citizenship are forfeited,  
34 and the judgment of the court pronounced provides a sentence, and such sentence is  
35 suspended upon the condition that such person be admitted to and remain at any training  
36 school, until lawfully discharged, and upon payment of costs, such person may be  
37 restored to such forfeited rights of citizenship upon application and petition to the judge  
38 presiding at any session of the superior court held in the county in which the conviction  
39 was had, at any time after one year from the date of the lawful discharge from any such  
40 school.

41 **"§ 13-13. Contents of petition; affidavits of reputable citizens; hearing; decree of**  
42 **restoration.**

43 The petition provided for in G.S. 13-12 shall set out the nature of the crime  
44 committed, the time of conviction, the judgment of the court, and shall recite that the

1 costs of suit have been paid, the lawful discharge of the applicant from the school to  
2 which he or she was admitted, and that applicant has never before had restored to him  
3 lost rights of citizenship, which petition shall be verified by the oath of the applicant,  
4 and accompanied by the affidavits of 10 reputable citizens of the county in which said  
5 conviction took place, who shall state that they are well acquainted with the applicant,  
6 and that they are of the opinion that the applicant should have restored to him the lost  
7 rights of citizenship. The petition shall be heard by the judge during a session of court,  
8 and if he is satisfied as to the truth of the matters set out in the petition and the  
9 affidavits, he shall decree the applicant's restoration to the lost rights of citizenship and  
10 the clerk shall spread the decree upon his minute docket.

11 **"§ 13-14. Restoration of citizenship to persons convicted, etc., of involuntary**  
12 **manslaughter.**

13 Any person who has been convicted of, or confessed guilt to, the crime of  
14 involuntary manslaughter and is not actually serving a term in the State prison may, at  
15 any subsequent session of the superior court of the county in which the conviction was  
16 had, or the confession of guilt made, make application and petition the court for a  
17 restoration of all forfeited rights of citizenship.

18 **"§ 13-15. Contents of petition; supporting affidavits; hearing and decree.**

19 The petition provided for in G.S. 13-14 shall set out the nature of the crime  
20 committed, the time of conviction or confession of guilt, the judgment of the court, and  
21 shall recite that the costs of suit have been paid, and that applicant has never before had  
22 restored to him lost rights of citizenship, which petition shall be verified by the oath of  
23 the applicant, and accompanied by the affidavits of 10 reputable citizens of the county  
24 in which said conviction or confession of guilt took place, who shall state that they are  
25 well acquainted with the applicant, and that they are of the opinion that the applicant  
26 should have restored to him the lost rights of citizenship. The petition shall be heard by  
27 the judge during a session of court, and if he is satisfied as to the truth of the matters set  
28 out in the petition and the affidavits, he shall have the authority to decree the applicant's  
29 restoration to the lost rights of citizenship and the clerk shall spread the decree upon his  
30 minute docket."

31 Sec. 2. This act is effective upon ratification.