

SB79 INTRODUCED



1 SB79
2 JHSENYF-1
3 By Senators Smitherman, Orr, Singleton, Stewart
4 RFD: Judiciary
5 First Read: 07-Feb-24



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SYNOPSIS:

Under existing law, certain occupational licensing boards may automatically disqualify an applicant convicted of a felony from licensure unless the individual has received an order of limited relief granted by a circuit court, in which case the occupational licensing board may not automatically disqualify the individual but may consider the conduct underlying the conviction when determining whether to disqualify the individual from licensure.

This bill would require an occupational licensing board, when requested by an individual, to determine, based on a number of factors, whether that individual's criminal conviction disqualifies him or her from obtaining an occupational license.

This bill would require an occupational licensing board to publish on its official website a list of all criminal offenses that disqualify an individual from licensure.

This bill would prohibit an occupational licensing board, absent applicable state law, from using certain vague terms in rules as a reason for disqualification from licensure and from considering an applicant's criminal record except when the offense specifically and directly relates to the duties and



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29 responsibilities of the licensed occupation.

30 This bill would also repeal the laws relating to
31 providing for, petitioning for, and obtaining an order
32 of limited relief.

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A BILL

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TO BE ENTITLED

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AN ACT

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39 Relating to occupational licensing boards; to amend
40 Section 41-9A-2, Code of Alabama 1975; to require an
41 occupational licensing board to determine whether an
42 individual's criminal conviction disqualifies him or her from
43 obtaining an occupational license in certain circumstances; to
44 add Section 41-9A-2.1 to the Code of Alabama 1975, to prohibit
45 an occupational licensing board from using certain terms in
46 rulemaking as reasons for disqualification from licensure and
47 to limit the circumstances under which an occupational
48 licensing board may consider an individual's criminal record
49 when determining if the individual qualifies for licensure; to
50 repeal Chapter 26 of Title 12, Code of Alabama 1975, relating
51 to orders of limited relief; and to require occupational
52 licensing boards to include certain information on official
53 websites.

54 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

55 Section 1. Section 41-9A-2, Code of Alabama 1975, is
56 amended to read as follows:



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57 "§41-9A-2

58 (a) ~~When applying for a license, an applicant may~~
59 ~~attach to the application a valid order of limited relief~~
60 ~~granted under Section 12-26-9~~ An individual who has been
61 convicted of any criminal offense, at any time, may request
62 that an occupational licensing board determine whether the
63 individual's criminal conviction disqualifies the individual
64 from obtaining a license from the board. Any individual making
65 a request shall include details of the individual's criminal
66 conviction and any required fee as provided in subsection (c).

67 (b) An occupational licensing board ~~may not~~
68 ~~automatically deny an application for a license or revoke an~~
69 ~~existing license because of a criminal conviction when a valid~~
70 ~~order of limited relief has been issued for the otherwise~~
71 ~~disqualifying conviction or convictions in question; provided,~~
72 ~~however, an occupational licensing board may consider the~~
73 ~~conduct underlying a conviction upon which an order of limited~~
74 ~~relief was granted and may deny, revoke, or suspend a license~~
75 ~~based on that underlying conduct~~ shall make a determination
76 and inform the requesting individual of its decision not later
77 than 30 days after receiving a request. An occupational
78 licensing board shall support any adverse decision with clear
79 and convincing evidence. Absent applicable state law, the
80 board shall make its determination based on the following
81 factors:

82 (1) The nature and seriousness of the crime for which
83 the individual was convicted.

84 (2) The passage of time since the commission of the



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85 crime.

86 (3) The relationship of the crime to the ability,
87 capacity, and fitness required to perform the duties and
88 discharge the responsibilities of the occupation.

89 (4) Any evidence of rehabilitation or treatment
90 undertaken by the individual that might mitigate against a
91 direct relation.

92 (c) An occupational licensing board may charge a fee of
93 not more than twenty dollars (\$20) per request to reimburse
94 the board for costs incurred in making a determination.

95 (d) An occupational licensing board shall make
96 available to the public on the occupational licensing board's
97 official website a list of all criminal offenses that may
98 disqualify an individual from obtaining a license.

99 ~~(e)~~ (e) This section does not apply to law enforcement
100 employment, Alabama Peace Officers' Standards and Training
101 Commission certification, or the issuance of ~~drivers'~~ driver
102 licenses.

103 (f) An occupational licensing board may adopt rules to
104 implement this section."

105 Section 2. Section 41-9A-2.1 is added to the Code of
106 Alabama to read as follows:

107 §41-9A-2.1

108 (a) Absent applicable state law, an occupational
109 licensing board may not adopt in any rule providing for
110 qualifications for licensure vague or generic terms,
111 including, but not limited to, "moral turpitude," "any
112 felony," or "good character."



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113 (b) Absent applicable state law, an occupational
114 licensing board may only consider criminal records that are
115 specific and directly related to the duties and
116 responsibilities for the licensed occupation when evaluating
117 applicants.

118 Section 3. Chapter 26 of Title 12, comprised of Section
119 12-26-1 through 12-26-11, Code of Alabama 1975, relating to
120 petitions for order of limited relief, is repealed.

121 Section 4. This act shall become effective on October
122 1, 2024.