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AN ACT

RELATING TO EMPLOYMENT; EXPANDING THE LIST OF CRIMINAL RECORDS THAT CANNOT BE CONSIDERED IN AN APPLICATION FOR PUBLIC EMPLOYMENT, LICENSE OR OTHER AUTHORITY; ENACTING A NEW SECTION OF CHAPTER 61 NMSA 1978 TO PROHIBIT THE EXCLUSION FROM PROFESSIONAL LICENSURE OF PERSONS CONVICTED OF CERTAIN FELONIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-2-3 NMSA 1978 (being Laws 1974, Chapter 78, Section 3, as amended) is amended to read:

"28-2-3. EMPLOYMENT ELIGIBILITY DETERMINATION.--

A. Subject to the provisions of Subsection B of this section and Sections 28-2-4 and 28-2-5 NMSA 1978, in determining eligibility for employment with the state or any of its political subdivisions or for a license, permit, certificate or other authority to engage in any regulated trade, business or profession, the board or other department or agency having jurisdiction may take into consideration a conviction, but the conviction shall not operate as an automatic bar to obtaining public employment or license or other authority to practice the trade, business or profession. A board, department or agency of the state or any of its political subdivisions shall not make an inquiry regarding an arrest or conviction on an initial application

1 for employment and shall only take into consideration a
2 conviction after the applicant has been selected as a
3 finalist for the position.

4 B. The following criminal records shall not be
5 used, distributed or disseminated in connection with an
6 application for any public employment, license or other
7 authority:

8 (1) records of arrest not followed by a
9 valid conviction;

10 (2) a conviction that has been sealed,
11 dismissed, expunged or pardoned;

12 (3) a juvenile adjudication; or

13 (4) a conviction for a crime that is not
14 directly related to the duties or responsibilities of the
15 licensed occupation."

16 SECTION 2. Section 61-1-1 NMSA 1978 (being Laws 1957,
17 Chapter 247, Section 1, as amended) is amended to read:

18 "61-1-1. SHORT TITLE.--Chapter 61, Article 1 NMSA 1978
19 may be cited as the "Uniform Licensing Act"."

20 SECTION 3. A new section of the Uniform Licensing Act
21 is enacted to read:

22 "EXCLUSION FROM PROFESSIONAL LICENSURE--
23 PROHIBITION--EXCEPTIONS.--

24 A. A board shall not deny licensure to an
25 individual who is otherwise qualified for licensure on the

1 sole basis that the individual has been previously arrested
2 for or convicted of a felony, unless the individual was
3 convicted and the conviction was for a crime related to the
4 profession for which the individual seeks licensure.

5 B. By January 31, 2020, a board shall promulgate
6 rules relating to licensing requirements to list and shall
7 post on the board's website the specific criminal convictions
8 that could disqualify an applicant from receiving a license
9 on the basis of a previous felony conviction. A board shall
10 not use vague or generic terms, such as "moral turpitude" or
11 "good character". A board may only list disqualifying felony
12 convictions that are directly related to the duties and
13 responsibilities for each specific license.

14 C. A board that denies an application for a
15 license based in whole or in part on an applicant's felony
16 conviction shall provide written findings.

17 D. In any administrative hearing or agency appeal,
18 the board shall carry the burden of proof on the question of
19 whether the applicant's criminal conviction directly relates
20 to the occupation for which the license is sought."

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