

1 ENGROSSED SENATE
2 BILL NO. 1691

By: Taylor and Rader of the
Senate

3 and

4 Boles of the House

5
6 An Act relating to occupational licensing and
7 certification; amending 59 O.S. 2021, Section 4000.1,
8 which relates to determination for granting or
9 denying licensing; providing for terms of denial of a
10 state license or certification; allowing a licensing
11 or certification authority to consider certain
12 conditions before determination; preventing denial of
13 licensure from a licensing or certification authority
14 under certain conditions; requiring written notice to
15 applicant from authority before determination;
16 providing for notice of denial to be presented to
17 applicant and allow for appeal and reapplication;
18 removing terms of determination; providing for terms
19 of disqualification during application process if
20 subsequently convicted, has pending charges, or
21 undisclosed convictions; allowing for rescindment of
22 determination under certain conditions; requiring a
23 licensing or certification authority to provide and
24 publish certain information with applications;
requiring distribution of information on website and
to the Legislature each year; providing agency
exceptions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 4000.1, is
amended to read as follows:

Section 4000.1. A. As used in this section:

1. "Substantially relate" means the nature of the criminal
conduct for which the person was convicted has a direct bearing on

1 the fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Pose a reasonable threat" means the nature of the criminal
4 conduct for which the person was convicted involved an act or threat
5 of harm against another and has a bearing on the fitness or ability
6 to serve the public or work with others in the occupation.

7 B. Notwithstanding any other provision of law, conviction or
8 pending criminal charge of a crime may be grounds for the denial of
9 a state license or certification to practice an occupation only if
10 the underlying offense substantially relates to the duties and
11 responsibilities of the occupation and poses a reasonable threat to
12 public safety. When making a determination pursuant to this
13 subsection, a licensing or certification authority shall consider:

14 1. The nature and seriousness of the offense;

15 2. The amount of time that has passed since the conviction;

16 3. The age of the person at the time the offense was committed;

17 4. Evidence relevant to the circumstances of the offense

18 including any aggravating or mitigating circumstances of social
19 conditions surrounding the commission of the offense;

20 5. The nature of the specific duties and responsibilities for
21 which the license or certification is required; and

22 6. Any evidence of rehabilitation submitted by the applicant

23 including, but not limited to, evidence related to the person's

24 compliance with any conditions of community supervisions, parole, or

1 mandatory supervision, the conduct and work activity of the person,
2 programming, or treatment undertaken by the person, and testimonials
3 or personal reference statements.

4 C. Notwithstanding any other provision of law, a licensing or
5 certification authority shall not deny a state license or
6 certification to practice an occupation due to:

7 1. An arrest that was not followed by a valid conviction unless
8 charges are currently pending;

9 2. A conviction that has been pardoned, sealed, or expunged;

10 3. A conviction for which more than five (5) years have elapsed
11 since the date of conviction or release from incarceration,

12 whichever is later, so long as the person has not been convicted of
13 a new crime. This paragraph shall not apply to any conviction for:

14 a. an offense enumerated in Section 571 of Title 57 of
15 the Oklahoma Statutes,

16 b. a felony involving domestic assault, domestic assault
17 and battery, or domestic abuse as defined in Section
18 644 of Title 21 of the Oklahoma Statutes,

19 c. an offense that would require registration as a sex
20 offender pursuant to the Sex Offenders Registration
21 Act, or

22 d. any equivalent law enumerated in this paragraph from
23 another jurisdiction; or

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1 4. A finding that an applicant lacks good character or fails to
2 meet any other similarly vague standard where a criminal conviction
3 is the basis for the finding.

4 D. Before a licensing or certification authority makes a final
5 determination that a criminal conviction or pending criminal charge
6 may disqualify an applicant for licensure, that authority shall
7 provide written notice of:

8 1. The specific conviction that is the basis for the intended
9 denial;

10 2. The reasons the conviction was determined to substantially
11 relate to the duties and responsibilities of the occupation and
12 posed a reasonable threat to public safety including findings for
13 each of the factors in subsection B of this section that the
14 licensing or certification authority deemed relevant to the
15 determination; and

16 3. The right to submit additional evidence relevant to each of
17 the factors listed in subsection B of this section within thirty
18 (30) days, which the licensing or certification authority shall
19 consider before issuing a final determination.

20 E. A final determination that a criminal conviction or pending
21 criminal charge may prevent a person from receiving a license shall
22 be in writing and include notice of the right to appeal the
23 determination pursuant to the Administrative Procedures Act, or a
24

1 more specific statutory authority, and notice of the earliest date
2 the applicant may reapply for a license.

3 F. A person with a criminal history record may request ~~an~~
4 ~~initial~~ a determination of whether his or her criminal history
5 record ~~would potentially~~ may disqualify him or her from obtaining
6 the desired license or certification in the occupation from a state
7 licensing or certification authority at any time, including before
8 obtaining any required education or training for such occupation.
9 The request shall be in writing and shall include either a copy of
10 the person's criminal history record with explanation of each
11 conviction mentioned in the criminal history record or a statement
12 describing each criminal conviction including the date of each
13 conviction, the court of jurisdiction and the sentence imposed. The
14 person may include a statement with his or her request describing
15 additional information for consideration by the licensing or
16 certification authority including, but not limited to, information
17 ~~about his or her current circumstances, the length of time since~~
18 ~~conviction and what has changed since the conviction, evidence of~~
19 ~~rehabilitation, testimonials or personal reference statements and~~
20 ~~his or her employment aspirations~~ relevant to any of the factors for
21 consideration described in subsection B of this section.

22 ~~C. Each state entity charged with oversight of an occupational~~
23 ~~license or certification shall list with specificity any criminal~~
24 ~~offense that is a disqualifying offense for such occupation. Any~~

1 ~~disqualifying offense shall substantially relate to the duties and~~
2 ~~responsibilities of the occupation and pose a reasonable threat to~~
3 ~~public safety as defined in subsection A of this section.~~
4 ~~Disqualifying offenses shall be provided to applicants and others~~
5 ~~upon request.~~

6 ~~D.~~ G. Upon receipt of a written request for consideration of a
7 criminal history record for an occupation as provided in subsection
8 ~~B~~ F of this section, the licensing or certification authority shall
9 evaluate the request and make ~~an initial~~ a determination based upon
10 the information provided in such request whether the stated
11 conviction is a disqualifying offense for the occupation. A notice
12 of ~~initial~~ the determination shall be issued to the petitioner
13 within sixty (60) days from the date such request was received by
14 the licensing or certification authority, except however, a
15 licensing or certification authority regulating fifty thousand or
16 more members in its occupation shall be allowed ninety (90) days to
17 make its initial determination and issue notice to the requestor.

18 ~~E.~~ H. A determination made pursuant to subsection F of this
19 subsection that a person may not be disqualified for licensure or
20 certification due to criminal history shall be binding upon a
21 licensing or certification authority unless, at the time a full
22 application for a license is submitted, the applicant has been
23 subsequently convicted of a crime, has pending criminal charges, or
24 has previously undisclosed criminal convictions.

1 I. The notice of ~~initial~~ a determination made pursuant to
2 subsection F of this section shall be in writing and mailed to the
3 requestor at the address provided in his or her request, and shall
4 contain the following statements:

5 1. Whether the person ~~appears~~ is eligible for licensure or
6 certification in the occupation at the current time based upon the
7 information submitted by the requestor;

8 2. Whether there is a disqualifying offense ~~prohibiting that~~
9 would disqualify the person's engagement person from engaging in the
10 occupation at ~~any~~ the current time and a statement identifying such
11 offense in the criminal history record or information submitted for
12 consideration;

13 3. Any actions the person may take to remedy ~~what appears to be~~
14 a ~~temporary~~ disqualification, if any;

15 4. The earliest date the person may submit another request for
16 consideration, if any; and

17 5. A statement that the ~~notice of initial~~ determination ~~is only~~
18 ~~an initial determination for eligibility for licensure or~~
19 ~~certification in the occupation based upon the information provided~~
20 ~~by the requestor~~ may be rescinded if, at the time a full application
21 for a license is submitted, the applicant has been subsequently
22 convicted of a crime, has pending criminal charges, or has
23 previously undisclosed criminal convictions.

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1 ~~F.~~ J. A state entity charged with oversight of an occupational
2 license or certification may promulgate forms for requests for
3 ~~initial~~ determinations for the occupation as authorized in
4 subsection ~~B~~ F of this section. Each state licensing or
5 certification authority may charge a fee not to exceed Ninety-five
6 Dollars (\$95.00) for each initial determination of eligibility it
7 makes for the occupation based upon the information provided by the
8 requestor.

9 K. Each licensing or certification authority shall include in
10 its application for a license or certification and publish on its
11 public website the following information:

12 1. Whether the criminal convictions of applicants may be used
13 as a basis for denial;

14 2. If criminal history may be used as a basis for denial as
15 listed in subsection B of this section, which the licensing or
16 certification authority shall consider; and

17 3. Notice of the right to request a determination pursuant to
18 subsection F of this section.

19 L. Each licensing or certification authority authorized to
20 consider the criminal conviction of an applicant shall annually
21 provide to the Legislature, and publish on its public website, the
22 following:

23 1. The number of license applications received;
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1 2. The number of applications that resulted in a license being
2 granted;

3 3. The number of applications that resulted in a license being
4 denied;

5 4. The number of applications that were denied due to criminal
6 history;

7 5. A list of criminal offenses reported by individuals who were
8 granted a license;

9 6. A list of criminal offenses reported by individuals who were
10 denied a license due to criminal history along with the time elapsed
11 since the commission of the offense; and

12 7. The number of petitions received by the licensing or
13 certification authority pursuant to subsection F of this section.

14 M. The provisions of this section shall not be construed to
15 apply to the Council on Law Enforcement Education and Training, the
16 State Board of Education, or individuals applying to these
17 authorities for certification or licensure.

18 SECTION 2. This act shall become effective November 1, 2022.

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1 Passed the Senate the 22nd day of February, 2022.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2022.

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8 _____
9 Presiding Officer of the House
of Representatives