

HOUSE BILL 1859

By Davis

AN ACT to amend Tennessee Code Annotated, Title 62
and Title 63, relative to occupational licensing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-130, is amended by deleting subsection (a) and substituting:

(a) As used in this section, "licensing authority" means a state department, board, commission, or agency that issues, denies, suspends, or revokes a license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state.

SECTION 2. Tennessee Code Annotated, Section 63-1-130(b), is amended by deleting subdivision (1) and substituting:

(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall:

(A) Not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade; and

(B)

(i) Not automatically bar an individual from licensure because of the individual's criminal record; and

(ii) Provide individualized consideration of the individual's criminal record and current circumstances as set forth in this section.

SECTION 3. Tennessee Code Annotated, Section 63-1-130(c), is amended by deleting the second sentence and substituting:

The licensing authority must demonstrate by clear and convincing evidence that the individual, applicant, licensee, certificate holder, or registrant's conviction directly relates to the applicable occupation, profession, business, or trade.

SECTION 4. Tennessee Code Annotated, Section 63-1-130, is amended by deleting subsections (d), (e), and (f) and substituting:

(d) This section does not:

(1) Prohibit a licensing authority created by this title from issuing a restricted or conditional license, if otherwise authorized to do so under law;

(2) Create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

or

(3) Apply to:

(A) The board of law examiners, created under § 23-1-101;

(B) The board of judicial conduct, created under § 17-5-201;

(C) The licensure for the provision of services for intellectual and developmental disabilities, and for personal support services;

(D) A licensing authority created under title 49 or 71; or

(E) A license, certificate, or registration issued pursuant to the rules of the supreme court.

(e) Notwithstanding another law, the licensing authority may only consider a conviction that is a felony or violent misdemeanor. The licensing authority shall not consider or require an individual to disclose:

- (1) An arrest not followed by a conviction;
- (2) A deferred adjudication or participation in a diversion program;
- (3) A conviction that has been sealed, annulled, dismissed, expunged, overturned, or pardoned;
- (4) A nonviolent misdemeanor;
- (5) A juvenile adjudication; or
- (6) A conviction older than three (3) years for which the individual was not incarcerated, or a conviction for which the individual's incarceration ended more than three (3) years before the date of the licensing authority's consideration, except for a conviction of a felony related to:

(A) Aggravated rape, as described in § 39-13-502(a); rape, as described in § 39-13-503(a); aggravated sexual battery, as described in § 39-13-504(a); sexual battery, as described in § 39-13-505(a); mitigated statutory rape, as described in § 39-13-506(a); statutory rape, as described in § 39-13-506(b); aggravated statutory rape, as described in § 39-13-506(c); indecent exposure, as described in § 39-13-511(a)(1); promoting prostitution, as described in § 39-13-515(a); aggravated prostitution, as described in § 39-13-516(a); public indecency, as described in § 39-13-517(b), under the circumstances described in § 39-13-517(d)(3)(A); continuous sexual abuse of a child, as described in § 39-13-518(b); rape of a child, as described in § 39-13-522(a); sexual battery by an authority figure, as described in § 39-13-527(a); solicitation of a minor, as described in § 39-13-528(a); soliciting sexual exploitation of a minor, as described in § 39-13-529(a) or (b); aggravated rape of a child, as described in § 39-13-531(a); statutory rape by an authority figure, as

described in § 39-13-532(a); promoting travel for prostitution, as described in § 39-13-533(a); especially aggravated rape, as described in § 39-13-534(a); or especially aggravated rape of a child, as described in § 39-13-535(a);

(B) Aggravated assault, as described in § 39-13-102(a)(1); reckless endangerment committed with a deadly weapon, as described in § 39-13-103(b)(2); reckless endangerment by discharging a firearm or antique firearm into a habitation, as described in § 39-13-103(b)(3); reckless endangerment by discharging a firearm from within a motor vehicle, as described in § 39-13-103(b)(4); vehicular assault, as described in § 39-13-106(a); offenses related to female genital mutilation, as described in § 39-13-110(b); domestic assault under the circumstances described in § 39-13-111(c)(3); aggravated vehicular assault, as described in § 39-13-115(b); aggravated assault against a first responder or nurse, as described in § 39-13-116(b); or grave torture, as described in § 39-13-117(a);

(C) Robbery, as described in § 39-13-401(a); aggravated robbery, as described in § 39-13-402(a); especially aggravated robbery, as described in § 39-13-403(a); or carjacking, as described in § 39-13-404;

(D) Burglary, as described in § 39-13-1002(a); aggravated burglary, as described in § 39-13-1003(a); or especially aggravated burglary, as described in § 39-13-1004(a);

(E) Child abuse, as described in § 39-15-401(a); child neglect, as described in § 39-15-401(b); child abuse or neglect, as described in § 39-15-401(d)(1); or aggravated child abuse, aggravated child neglect, or

aggravated endangerment of a child, as those terms are described in § 39-15-402(a);

(F) Neglect of an elderly or vulnerable adult, as described in § 39-15-507(a); aggravated neglect of an elderly or vulnerable adult, as described in § 39-15-508(a); abuse of an elderly or vulnerable adult, as described in § 39-15-510(a); or aggravated abuse or neglect of an elderly or vulnerable adult, as described in § 39-15-511(a);

(G) Arson, as described in § 39-14-301(a); or aggravated arson, as described in § 39-14-302(a);

(H) Kidnapping, as described in § 39-13-303(a); aggravated kidnapping, as described in § 39-13-304(a); especially aggravated kidnapping, as described in § 39-13-305(a); involuntary labor servitude, as described in § 39-13-307(a); trafficking persons for forced labor or services, as described in § 39-13-308(a); trafficking a person for a commercial sex act, as described in § 39-13-309(a); advertising commercial sexual abuse of a minor, as described in § 39-13-315(a); or aggravated human trafficking, as described in § 39-13-316(a);

(I) First degree murder, as described in § 39-13-202(a); second degree murder, as described in § 39-13-210(a); voluntary manslaughter, as described in § 39-13-211(a); criminally negligent homicide, as described in § 39-13-212(a); vehicular homicide, as described in § 39-13-213(a); reckless homicide, as described in § 39-13-215(a); or aggravated vehicular homicide, as described in § 39-13-218(a);

(J) An offense for an organized crime under title 39, chapter 12, part 2; or

(K) An offense under the Terrorism Prevention and Response Act, compiled in title 39, chapter 13, part 8.

(f) Notwithstanding another law, the licensing authority shall not use a vague term in its consideration and its notice or decision under this section, including good moral character, moral turpitude, or character and fitness.

SECTION 5. Tennessee Code Annotated, Section 62-76-104, is amended by deleting subsection (a) and substituting:

(a) As used in this section, "licensing authority" means a state department, board, commission, or agency that issues, denies, suspends, or revokes a license, certificate, or registration for an individual to engage in an occupation, profession, business, or trade in this state.

SECTION 6. Tennessee Code Annotated, Section 62-76-104(b), is amended by deleting subdivision (1) and substituting:

(1) Subject to the exemptions in this section and unless prohibited by federal law, a licensing authority shall:

(A) Not deny an application for a license, certificate, or registration, or refuse to renew a license, certificate, or registration due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade; or

(B)

(i) Not automatically bar an individual from licensure because of the individual's criminal record; and

(ii) Provide individualized consideration of the individual's criminal record and current circumstances as set forth in this section.

SECTION 7. Tennessee Code Annotated, Section 62-76-104(c), is amended by deleting the second sentence and substituting:

The licensing authority must demonstrate by clear and convincing evidence that the individual, applicant, licensee, certificate holder, or registrant's conviction directly relates to the applicable occupation, profession, business, or trade.

SECTION 8. Tennessee Code Annotated, Section 62-76-104, is amended by deleting subsections (d), (e), and (f) and substituting:

(d) This section does not:

(1) Prohibit a licensing authority created by this title from issuing a restricted or conditional license, if otherwise authorized to do so under law;

(2) Create a separate right to a contested case hearing that does not otherwise exist relative to the denial of the license, certificate, or registration under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

or

(3) Apply to:

(A) The board of law examiners, created under § 23-1-101;

(B) The board of judicial conduct, created under § 17-5-201;

(C) The licensure for the provision of services for intellectual and developmental disabilities, and for personal support services;

(D) A licensing authority created under title 49 or 71; or

(E) A license, certificate, or registration issued pursuant to the rules of the supreme court.

(e) Notwithstanding another law, the licensing authority may only consider a conviction that is a felony or violent misdemeanor. The licensing authority shall not consider or require an individual to disclose:

- (1) An arrest not followed by a conviction;
- (2) A deferred adjudication or participation in a diversion program;
- (3) A conviction that has been sealed, annulled, dismissed, expunged, overturned, or pardoned;
- (4) A nonviolent misdemeanor;
- (5) A juvenile adjudication; or
- (6) A conviction older than three (3) years for which the individual was not incarcerated, or a conviction for which the individual's incarceration ended more than three (3) years before the date of the licensing authority's consideration, except for a conviction of a felony related to:

(A) Aggravated rape, as described in § 39-13-502(a); rape, as described in § 39-13-503(a); aggravated sexual battery, as described in § 39-13-504(a); sexual battery, as described in § 39-13-505(a); mitigated statutory rape, as described in § 39-13-506(a); statutory rape, as described in § 39-13-506(b); aggravated statutory rape, as described in § 39-13-506(c); indecent exposure, as described in § 39-13-511(a)(1); promoting prostitution, as described in § 39-13-515(a); aggravated prostitution, as described in § 39-13-516(a); public indecency, as described in § 39-13-517(b), under the circumstances described in § 39-13-517(d)(3)(A); continuous sexual abuse of a child, as described in § 39-13-518(b); rape of a child, as described in § 39-13-522(a); sexual battery by an authority figure, as described in § 39-13-527(a); solicitation of a minor, as described in § 39-13-528(a); soliciting sexual exploitation of a minor, as described in § 39-13-529(a) or (b); aggravated rape of a child, as described in § 39-13-531(a); statutory rape by an authority figure, as

described in § 39-13-532(a); promoting travel for prostitution, as described in § 39-13-533(a); especially aggravated rape, as described in § 39-13-534(a); or especially aggravated rape of a child, as described in § 39-13-535(a);

(B) Aggravated assault, as described in § 39-13-102(a)(1); reckless endangerment committed with a deadly weapon, as described in § 39-13-103(b)(2); reckless endangerment by discharging a firearm or antique firearm into a habitation, as described in § 39-13-103(b)(3); reckless endangerment by discharging a firearm from within a motor vehicle, as described in § 39-13-103(b)(4); vehicular assault, as described in § 39-13-106(a); offenses related to female genital mutilation, as described in § 39-13-110(b); domestic assault under the circumstances described in § 39-13-111(c)(3); aggravated vehicular assault, as described in § 39-13-115(b); aggravated assault against a first responder or nurse, as described in § 39-13-116(b); or grave torture, as described in § 39-13-117(a);

(C) Robbery, as described in § 39-13-401(a); aggravated robbery, as described in § 39-13-402(a); especially aggravated robbery, as described in § 39-13-403(a); or carjacking, as described in § 39-13-404;

(D) Burglary, as described in § 39-13-1002(a); aggravated burglary, as described in § 39-13-1003(a); or especially aggravated burglary, as described in § 39-13-1004(a);

(E) Child abuse, as described in § 39-15-401(a); child neglect, as described in § 39-15-401(b); child abuse or neglect, as described in § 39-15-401(d)(1); or aggravated child abuse, aggravated child neglect, or

aggravated endangerment of a child, as those terms are described in § 39-15-402(a);

(F) Neglect of an elderly or vulnerable adult, as described in § 39-15-507(a); aggravated neglect of an elderly or vulnerable adult, as described in § 39-15-508(a); abuse of an elderly or vulnerable adult, as described in § 39-15-510(a); or aggravated abuse or neglect of an elderly or vulnerable adult, as described in § 39-15-511(a);

(G) Arson, as described in § 39-14-301(a); or aggravated arson, as described in § 39-14-302(a);

(H) Kidnapping, as described in § 39-13-303(a); aggravated kidnapping, as described in § 39-13-304(a); especially aggravated kidnapping, as described in § 39-13-305(a); involuntary labor servitude, as described in § 39-13-307(a); trafficking persons for forced labor or services, as described in § 39-13-308(a); trafficking a person for a commercial sex act, as described in § 39-13-309(a); advertising commercial sexual abuse of a minor, as described in § 39-13-315(a); or aggravated human trafficking, as described in § 39-13-316(a);

(I) First degree murder, as described in § 39-13-202(a); second degree murder, as described in § 39-13-210(a); voluntary manslaughter, as described in § 39-13-211(a); criminally negligent homicide, as described in § 39-13-212(a); vehicular homicide, as described in § 39-13-213(a); reckless homicide, as described in § 39-13-215(a); or aggravated vehicular homicide, as described in § 39-13-218(a);

(J) An offense for an organized crime under title 39, chapter 12, part 2; or

(K) An offense under the Terrorism Prevention and Response Act, compiled in title 39, chapter 13, part 8.

(f) Notwithstanding another law, the licensing authority shall not use a vague term in its consideration and its notice or decision under this section, including good moral character, moral turpitude, or character and fitness.

SECTION 9. This act takes effect July 1, 2024, the public welfare requiring it.