

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1691

By: Taylor and Rader of the
Senate

3

and

4

Boles of the House

5

6

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

19

20 AUTHORS: Add the following House Coauthors: Lepak, Mize,
21 McDugle, Munson, Stark, Hilbert, West (Tammy),
Talley, Provenzano, and Roberts (Eric)

22 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
23 and insert:
24

1 "An Act relating to occupational licensing and
2 certification; amending 59 O.S. 2021, Section
3 4000.1, which relates to determination for granting
4 or denying licensing; providing for terms of denial
5 of a state license or certification; allowing a
6 licensing or certification authority to consider
7 certain conditions before determination; preventing
8 denial of licensure from a licensing or
9 certification authority under certain conditions;
10 requiring written notice to applicant from authority
11 before determination; providing for notice of denial
12 to be presented to applicant and allow for appeal
13 and reapplication; removing terms of determination;
14 providing for terms of disqualification during
15 application process if subsequently convicted, has
16 pending charges, or undisclosed convictions;
17 allowing for rescindment of determination under
18 certain conditions; requiring a licensing or
19 certification authority to provide and publish
20 certain information with applications; requiring
21 distribution of information on website and to the
22 Legislature each year; providing agency exceptions;
23 and providing an effective date.
24

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

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

17 Section 4000.1 A. As used in this section:

18 1. "Substantially relate" means the nature of the criminal
19 conduct for which the person was convicted has a direct bearing on
20 the fitness or ability to perform one or more of the duties or
21 responsibilities necessarily related to the occupation; and

22 2. "Pose a reasonable threat" means the nature of the criminal
23 conduct for which the person was convicted involved an act or threat
24

1 of harm against another and has a bearing on the fitness or ability
2 to serve the public or work with others in the occupation.

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

12 1. The nature and seriousness of the offense;

13 2. The amount of time that has passed since the offense;

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

15 4. Evidence relevant to the circumstances of the offense

16 including any aggravating or mitigating circumstances of social
17 conditions surrounding the commission of the offense;

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

20 6. Any evidence of rehabilitation submitted by the applicant
21 including, but not limited to, evidence related to the person's
22 compliance with any conditions of community supervision, parole, or
23 mandatory supervision, the conduct and work activity of the person,
24

1 programming, or treatment undertaken by the person, and testimonials
2 or personal reference statements.

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

6 1. An arrest that was not followed by a valid plea of guilty or
7 nolo contendere unless charges are currently pending;

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

9 3. A conviction or plea of guilty or nolo contendere for which
10 more than five (5) years have elapsed since the date of conviction,
11 plea, or release from incarceration, whichever is later, so long as
12 the person has not been convicted of a new crime. This paragraph
13 shall not apply to any conviction or plea of guilty or nolo
14 contendere for:

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

17 b. a felony involving domestic assault, domestic assault
18 and battery, or domestic abuse as defined in Section
19 644 of Title 21 of the Oklahoma Statutes,

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

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

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 state licensing or state certification authority
5 makes a final determination that a criminal conviction, plea of
6 guilty or nolo contendere, or pending criminal charge may disqualify
7 an applicant for licensure, that authority shall provide written
8 notice of:

9 1. The specific offense that is the basis for the intended
10 denial;

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

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

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

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

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

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1 ~~C. Each state entity charged with oversight of an occupational~~
2 ~~license or certification shall list with specificity any criminal~~
3 ~~offense that is a disqualifying offense for such occupation. Any~~
4 ~~disqualifying offense shall substantially relate to the duties and~~
5 ~~responsibilities of the occupation and pose a reasonable threat to~~
6 ~~public safety as defined in subsection A of this section.~~
7 ~~Disqualifying offenses shall be provided to applicants and others~~
8 ~~upon request.~~

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

21 ~~E.~~ H. A determination made pursuant to subsection F of this
22 subsection that a person may not be disqualified for licensure or
23 certification due to criminal history shall be binding upon a
24 licensing or certification authority unless, at the time a full

1 application for a license is submitted, the applicant has
2 subsequently pled guilty or nolo contendere to a crime, has pending
3 criminal charges, or has previously undisclosed criminal
4 convictions.

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

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

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

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

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

21 5. A statement that the ~~notice of initial~~ determination ~~is only~~
22 ~~an initial determination for eligibility for licensure or~~
23 ~~certification in the occupation based upon the information provided~~
24 ~~by the requestor~~ may be rescinded if, at the time a full application

1 for a license is submitted, the applicant has subsequently pled
2 guilty or nolo contendere to a crime, has pending criminal charges,
3 or has previously undisclosed criminal convictions.

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

12 K. Each state licensing or state certification authority shall
13 include in its application for a license or certification and
14 publish on its public website the following information:

15 1. Whether the criminal offenses of applicants may be used as a
16 basis for denial;

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

20 3. Notice of the right to request a determination pursuant to
21 subsection F of this section.

22 L. Each state licensing or state certification authority
23 authorized to consider the criminal conviction of an applicant shall
24

1 annually provide to the Legislature, and publish on its public
2 website, the following:

3 1. The number of license applications received;

4 2. The number of applications that resulted in a license being
5 granted;

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

8 4. The number of applications that were denied due to criminal
9 history;

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

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

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

17 M. The provisions of this section shall not be construed to
18 apply to the Council on Law Enforcement Education and Training, the
19 Bail Bonds Division of the Oklahoma Insurance Department, the State
20 Board of Education, or individuals applying to these authorities for
21 licensure or certification.

22 SECTION 2. This act shall become effective November 1, 2022."
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1 Passed the House of Representatives the 20th day of April, 2022.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2022.

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8
9 Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 1691

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11 or certification authority to consider certain
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14 under certain conditions; requiring written notice to
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20 subsequently convicted, has pending charges, or
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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 3. 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
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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;
24

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 4. This act shall become effective November 1, 2022.

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