

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1691

By: Taylor and Rader of the
Senate

6 and

7 Boles of the House

8
9
10 COMMITTEE SUBSTITUTE

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

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

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

3 Section 4000.1 A. As used in this section:

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

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

12 B. Notwithstanding any other provision of law, a conviction,
13 plea of guilty or nolo contendere, or pending criminal charge of a
14 crime may be grounds for the denial of an applicant for a state
15 license or state certification to practice an occupation only if the
16 underlying offense substantially relates to the duties and
17 responsibilities of the occupation and poses a reasonable threat to
18 public safety, health, or welfare. When making a determination
19 pursuant to this subsection, a licensing or certification authority
20 shall consider:

- 21 1. The nature and seriousness of the offense;
22 2. The amount of time that has passed since the offense;
23 3. The age of the person at the time the offense was committed;
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1 4. Evidence relevant to the circumstances of the offense
2 including any aggravating or mitigating circumstances of social
3 conditions surrounding the commission of the offense;

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

6 6. Any evidence of rehabilitation submitted by the applicant
7 including, but not limited to, evidence related to the person's
8 compliance with any conditions of community supervisions, parole, or
9 mandatory supervision, the conduct and work activity of the person,
10 programming, or treatment undertaken by the person, and testimonials
11 or personal reference statements.

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

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

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

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

- a. an offense enumerated in Section 571 of Title 57 of the Oklahoma Statutes,
- b. a felony involving domestic assault, domestic assault and battery, or domestic abuse as defined in Section 644 of Title 21 of the Oklahoma Statutes,
- c. an offense that would require registration as a sex offender pursuant to the Sex Offenders Registration Act, or
- d. any equivalent law enumerated in this paragraph from another jurisdiction; or

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

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

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

2. The reasons the offense was determined to substantially relate to the duties and responsibilities of the occupation and posed a reasonable threat to public safety, health, or welfare, including findings for each of the factors in subsection B of this

1 section that the licensing or certification authority deemed
2 relevant to the determination; and

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

7 E. A final determination that a criminal conviction, plea of
8 guilty or nolo contendere, or pending criminal charge may prevent a
9 person from receiving a license shall be in writing and include
10 notice of the right to appeal the determination pursuant to the
11 Administrative Procedures Act, or a more specific statutory
12 authority, and notice of the earliest date the applicant may reapply
13 for a license.

14 F. A person with a criminal history record may request ~~an~~
15 ~~initial~~ a determination of whether his or her criminal history
16 record ~~would potentially~~ may disqualify him or her from obtaining
17 the desired license or certification in the occupation from a state
18 licensing or state certification authority at any time, including
19 before obtaining any required education or training for such
20 occupation. The request shall be in writing and shall include
21 either a copy of the person's criminal history record with
22 explanation of each conviction mentioned in the criminal history
23 record or a statement describing each criminal conviction including
24 the date of each conviction, the court of jurisdiction and the

1 sentence imposed. The person may include a statement with his or
2 her request describing additional information for consideration by
3 the licensing or certification authority including, but not limited
4 to, ~~information about his or her current circumstances, the length~~
5 ~~of time since conviction and what has changed since the conviction,~~
6 ~~evidence of rehabilitation, testimonials or personal reference~~
7 ~~statements and his or her employment aspirations~~ relevant to any of
8 the factors for consideration described in subsection B of this
9 section.

10 ~~C. Each state entity charged with oversight of an occupational~~
11 ~~license or certification shall list with specificity any criminal~~
12 ~~offense that is a disqualifying offense for such occupation. Any~~
13 ~~disqualifying offense shall substantially relate to the duties and~~
14 ~~responsibilities of the occupation and pose a reasonable threat to~~
15 ~~public safety as defined in subsection A of this section.~~
16 ~~Disqualifying offenses shall be provided to applicants and others~~
17 ~~upon request.~~

18 ~~D.~~ G. Upon receipt of a written request for consideration of a
19 criminal history record for an occupation as provided in subsection
20 ~~B~~ F of this section, the licensing or certification authority shall
21 evaluate the request and make ~~an initial~~ a determination based upon
22 the information provided in such request whether the stated
23 conviction is a disqualifying offense for the occupation. A notice
24 of ~~initial~~ the determination shall be issued to the petitioner

1 within sixty (60) days from the date such request was received by
2 the licensing or certification authority, except however, a
3 licensing or certification authority regulating fifty thousand or
4 more members in its occupation shall be allowed ninety (90) days to
5 make its initial determination and issue notice to the requestor.

6 ~~E.~~ H. A determination made pursuant to subsection F of this
7 subsection that a person may not be disqualified for licensure or
8 certification due to criminal history shall be binding upon a
9 licensing or certification authority unless, at the time a full
10 application for a license is submitted, the applicant has
11 subsequently pled guilty or nolo contendere to a crime, has pending
12 criminal charges, or has previously undisclosed criminal
13 convictions.

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

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

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

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

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

7 5. A statement that the ~~notice of initial~~ determination is ~~only~~
8 ~~an initial determination for eligibility for licensure or~~
9 ~~certification in the occupation based upon the information provided~~
10 ~~by the requestor~~ may be rescinded if, at the time a full application
11 for a license is submitted, the applicant has subsequently pled
12 guilty or nolo contendere to a crime, has pending criminal charges,
13 or has previously undisclosed criminal convictions.

14 ~~F.~~ J. A state entity charged with oversight of an occupational
15 license or certification may promulgate forms for requests for
16 ~~initial~~ determinations for the occupation as authorized in
17 subsection ~~B~~ F of this section. Each state licensing or
18 certification authority may charge a fee not to exceed Ninety-five
19 Dollars (\$95.00) for each initial determination of eligibility it
20 makes for the occupation based upon the information provided by the
21 requestor.

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

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

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

6 3. Notice of the right to request a determination pursuant to
7 subsection F of this section.

8 L. Each state licensing or state certification authority
9 authorized to consider the criminal conviction of an applicant shall
10 annually provide to the Legislature, and publish on its public
11 website, the following:

12 1. The number of license applications received;

13 2. The number of applications that resulted in a license being
14 granted;

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

17 4. The number of applications that were denied due to criminal
18 history;

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

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

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

3 M. The provisions of this section shall not be construed to
4 apply to the Council on Law Enforcement Education and Training, the
5 Bail Bonds Division of the Oklahoma Insurance Department, the State
6 Board of Education, or individuals applying to these authorities for
7 certification or licensure.

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

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