

1 **SENATE FLOOR VERSION**

2 February 10, 2022

3 **AS AMENDED**

4 SENATE BILL NO. 1691

5 By: Taylor **and Rader** of the
6 Senate

7 and

8 **Boles** of the House

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

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

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

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

- 16 1. The nature and seriousness of the offense;
17 2. The amount of time that has passed since the conviction;
18 3. The age of the person at the time the offense was committed;
19 4. Evidence relevant to the circumstances of the offense
20 including any aggravating or mitigating circumstances of social
21 conditions surrounding the commission of the offense;
22 5. The nature of the specific duties and responsibilities for
23 which the license or certification is required; and
24

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

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

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

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

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

17 a. an offense enumerated in Section 571 of Title 57 of
18 the Oklahoma Statutes,

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

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

1 d. any equivalent law enumerated in this paragraph from
2 another jurisdiction; or

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

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

10 1. The specific conviction that is the basis for the intended
11 denial;

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

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

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

1 determination pursuant to the Administrative Procedures Act, or a
2 more specific statutory authority, and notice of the earliest date
3 the applicant may reapply 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 certification authority at any time, including before
9 obtaining any required education or training for such occupation.
10 The request shall be in writing and shall include either a copy of
11 the person's criminal history record with explanation of each
12 conviction mentioned in the criminal history record or a statement
13 describing each criminal conviction including the date of each
14 conviction, the court of jurisdiction and the sentence imposed. The
15 person may include a statement with his or her request describing
16 additional information for consideration by the licensing or
17 certification authority including, but not limited to, information
18 ~~about his or her current circumstances, the length of time since~~
19 ~~conviction and what has changed since the conviction, evidence of~~
20 ~~rehabilitation, testimonials or personal reference statements and~~
21 ~~his or her employment aspirations~~ relevant to any of the factors for
22 consideration described in subsection B of this section.

23 ~~C.~~ ~~Each state entity charged with oversight of an occupational~~
24 ~~license or certification shall list with specificity any criminal~~

1 ~~offense that is a disqualifying offense for such occupation. Any~~
2 ~~disqualifying offense shall substantially relate to the duties and~~
3 ~~responsibilities of the occupation and pose a reasonable threat to~~
4 ~~public safety as defined in subsection A of this section.~~

5 ~~Disqualifying offenses shall be provided to applicants and others~~
6 ~~upon request.~~

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

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

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1 subsequently convicted of a crime, has pending criminal charges, or
2 has previously undisclosed criminal convictions.

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

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

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

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

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

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

1 convicted of a crime, has pending criminal charges, or has
2 previously undisclosed criminal convictions.

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

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

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

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

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

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

1 1. The number of license applications received;

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

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

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

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
21 February 10, 2022 - DO PASS AS AMENDED