

HOUSE BILL 175

C3, E2
HB 906/23 – ECM

(PRE-FILED)

4lr0416
CF SB 54

By: **Delegate Harrison**

Requested: August 2, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2024

CHAPTER _____

1 AN ACT concerning

2 **Occupational Licensing and Certification – Criminal History – ~~Prohibited~~**
3 **~~Disclosures and~~ Predetermination Review Process**

4 FOR the purpose of ~~altering certain provisions of law regarding the prohibition on certain~~
5 ~~departments of State government from denying an occupational license or certificate~~
6 ~~to an applicant solely on the basis of the criminal history of the applicant by~~
7 ~~prohibiting a department from requiring disclosure of certain actions on an~~
8 ~~application and~~ establishing a predetermination review process for occupational
9 licenses and certificates in certain departments of State government; and generally
10 relating to occupational licensing and certification.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 1–209
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2023 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Criminal Procedure**

19 1–209.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(a) (1) In this section, “department” means:

- (i) the Department of Agriculture;
- (ii) the Department of the Environment;
- (iii) the Maryland Department of Health;
- (iv) the Department of Human Services;
- (v) the Maryland Department of Labor; or
- (vi) the Department of Public Safety and Correctional Services.

(2) “Department” includes any unit of a department specified in paragraph (1) of this subsection.

~~[(b)]~~ This section does not apply to a person who was previously convicted of a crime of violence, as defined in § 14–101 of the Criminal Law Article.

~~[(c)]~~ ~~(b)~~ It is the policy of the State to encourage the employment of ~~[(nonviolent)]~~ ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.

~~(c) A DEPARTMENT MAY NOT REQUIRE AN APPLICANT FOR AN OCCUPATIONAL LICENSE OR CERTIFICATE TO DISCLOSE AS A PART OF AN APPLICATION;~~

~~(1) ANY OF THE FOLLOWING:~~

~~(I) A DEFERRED ADJUDICATION;~~

~~(II) PARTICIPATION IN A DIVERSION PROGRAM; OR~~

~~(III) AN ARREST NOT FOLLOWED BY A CONVICTION;~~

~~(2) A CONVICTION FOR WHICH NO TERM OF IMPRISONMENT MAY BE IMPOSED;~~

~~(3) A CONVICTION THAT HAS BEEN SEALED, VACATED, DISMISSED, EXPUNGED, OR PARDONED;~~

~~(4) AN ADJUDICATION OF A DELINQUENT ACT AS A JUVENILE;~~

~~(5) A CONVICTION FOR A MISDEMEANOR THAT DID NOT INVOLVE PHYSICAL HARM TO ANOTHER INDIVIDUAL;~~

~~(6) A CONVICTION FOR WHICH A PERIOD OF 3 YEARS HAS PASSED SINCE THE APPLICANT COMPLETED SERVING THE APPLICANT'S SENTENCE IF THE SENTENCE DID NOT INCLUDE A TERM OF IMPRISONMENT; OR~~

~~(7) UNLESS THE CONVICTION WAS FOR A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, A CONVICTION FOR WHICH A PERIOD OF 3 YEARS HAS PASSED SINCE THE END OF THE INDIVIDUAL'S TERM OF IMPRISONMENT.~~

(d) ~~Except as provided in subsection (f) of this section, a~~ A department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:

(1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or

(2) the issuance of the license or certificate would involve ~~an unreasonable risk to property or to the safety or welfare of specific individuals or the general public~~ A ~~DIRECT AND SUBSTANTIAL THREAT TO PUBLIC SAFETY OR SPECIFIC INDIVIDUALS OR PROPERTY.~~

(e) In making the determination under subsection (d) of this section, the department shall consider:

(1) the policy of the State expressed in subsection ~~[(c)] (B)~~ of this section;

(2) the specific duties and responsibilities required of a licensee or certificate holder;

(3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate;

(4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;

(5) the seriousness of the offense for which the applicant was convicted;

~~(6) THE APPLICANT'S EDUCATION, TRAINING, AND EMPLOYMENT HISTORY BEFORE, DURING, AND AFTER THE APPLICANT'S TERM OF IMPRISONMENT;~~

~~(7) WHETHER THE OCCUPATIONAL LICENSE OR CERTIFICATE REQUIRES THE APPLICANT TO BE BONDED;~~

~~[(6)] (8)~~ other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and

~~[(7)] (9)~~ the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

(f) (1) (I) [This subsection does not apply to a conviction of a crime for which registration on the sex offender registry is required under Title 11, Subtitle 7 of this article.

(2) If a period of 7 years or more has passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation, as defined in § 10–101 of this article, during that time, a department may not deny an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of the crime.] **AN INDIVIDUAL MAY FILE A REQUEST WITH A DEPARTMENT FOR REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY TO DETERMINE WHETHER THE INDIVIDUAL'S CRIMINAL HISTORY WOULD DISQUALIFY THE INDIVIDUAL FROM OBTAINING THE OCCUPATIONAL LICENSE OR CERTIFICATE BEING SOUGHT.**

(II) THE DETERMINATION OF A DEPARTMENT REGARDING WHETHER THE OCCUPATIONAL LICENSE OR CERTIFICATE WOULD BE APPROVED OR DENIED TO THE INDIVIDUAL REQUESTING THE PREDETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE BINDING ON THE DEPARTMENT UNLESS THERE IS A SUBSEQUENT DIRECT AND MATERIAL ADVERSE CHANGE TO THE INDIVIDUAL'S CRIMINAL HISTORY.

(2) IF A DEPARTMENT DETERMINES THAT AN OCCUPATIONAL LICENSE OR CERTIFICATE WOULD BE DENIED TO THE INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL, IF APPLICABLE, ADVISE THE INDIVIDUAL OF ANY ACTION THAT MAY BE TAKEN BY THE INDIVIDUAL TO REMEDY THE REASON FOR THE DISQUALIFICATION.

(3) (I) AN INDIVIDUAL MAY SUBMIT A REVISED REQUEST FOR A PREDETERMINATION TO THE DEPARTMENT THAT MADE A PREDETERMINATION ON THE APPROVAL OR DENIAL OF AN OCCUPATIONAL LICENSE OR CERTIFICATE UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT INCLUDES THE COMPLETION OF ANY RECOMMENDED REMEDIAL ACTIONS.

(II) AN INDIVIDUAL MAY SUBMIT A REVISED REQUEST FOR A PREDETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THE EARLIER OF:

1 1. 1 YEAR AFTER THE DATE THE INDIVIDUAL RECEIVED
2 THE PREDETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

3 2. ON COMPLETION OF THE REMEDIAL ACTIONS
4 RECOMMENDED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF THIS
5 SUBSECTION.

6 (4) (I) A DEPARTMENT MAY CHARGE A CRIMINAL HISTORY REVIEW
7 FEE TO AN INDIVIDUAL TO CONDUCT A REVIEW UNDER THIS SECTION NOT
8 EXCEEDING \$100.

9 (II) THE FEE CHARGED UNDER SUBPARAGRAPH (I) OF THIS
10 PARAGRAPH SHALL BE WAIVED IF THE INDIVIDUAL'S INCOME IS AT OR BELOW 300%
11 OF THE FEDERAL POVERTY LEVEL, AS DETERMINED BY THE DISTRICT COURT OF
12 THE STATE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.