

SENATE BILL 596

C3

3lr2786

By: **Senator Carter**

Introduced and read first time: February 6, 2023

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Business Occupations and Professions – Occupational Licenses and Certificates**
3 **– Criminal History**

4 FOR the purpose of prohibiting certain boards and commissions within the Maryland
5 Department of Labor that issue occupational licenses and certificates from denying
6 a license or certificate to an applicant solely because of the criminal history of the
7 applicant; requiring certain boards and commissions to establish a certain
8 predetermination review process for certain individuals seeking a certain
9 occupational license or certificate; and generally relating to the regulation of
10 business occupations and professions and licensing requirements.

11 BY adding to
12 Article – Business Occupations and Professions
13 Section 1–209
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2022 Supplement)

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

18 **Article – Business Occupations and Professions**
19 **1–209.**

20 (A) IN THIS SECTION, “BOARD” MEANS ANY BOARD OR COMMISSION
21 ESTABLISHED IN THIS ARTICLE THAT ISSUES AN OCCUPATIONAL LICENSE OR
22 CERTIFICATE.

23 (B) IT IS THE POLICY OF THE STATE TO ENCOURAGE THE EMPLOYMENT OF
24 NONVIOLENT EX–OFFENDERS AND REMOVE BARRIERS TO THEIR ABILITY TO

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 DEMONSTRATE FITNESS FOR OCCUPATIONAL LICENSES OR CERTIFICATES
2 REQUIRED BY THE STATE.

3 (C) A BOARD MAY NOT REQUIRE AN APPLICANT FOR AN OCCUPATIONAL
4 LICENSE OR CERTIFICATE TO DISCLOSE AS A PART OF AN APPLICATION:

5 (1) ANY OF THE FOLLOWING:

6 (I) A DEFERRED ADJUDICATION;

7 (II) PARTICIPATION IN A DIVERSION PROGRAM; OR

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

9 (2) A CONVICTION FOR WHICH NO TERM OF IMPRISONMENT CAN BE
10 IMPOSED;

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

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

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

16 (6) A CONVICTION FOR WHICH A PERIOD OF 3 YEARS HAS PASSED
17 SINCE THE APPLICANT COMPLETED SERVING THEIR SENTENCE IF THE SENTENCE
18 DID NOT INCLUDE A TERM OF IMPRISONMENT; OR

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

23 (D) A BOARD MAY NOT DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE
24 TO AN APPLICANT SOLELY ON THE BASIS THAT THE APPLICANT HAS PREVIOUSLY
25 BEEN CONVICTED OF A CRIME, UNLESS THE BOARD DETERMINES THAT:

26 (1) THERE IS A DIRECT RELATIONSHIP BETWEEN THE APPLICANT'S
27 PREVIOUS CONVICTION AND THE SPECIFIC OCCUPATIONAL LICENSE OR
28 CERTIFICATE SOUGHT; OR

1 **(2) THE ISSUANCE OF THE LICENSE OR CERTIFICATE WOULD INVOLVE**
2 **A DIRECT AND SUBSTANTIAL THREAT TO PUBLIC SAFETY OR SPECIFIC INDIVIDUALS**
3 **OR PROPERTY.**

4 **(E) IN MAKING THE DETERMINATION UNDER SUBSECTION (D) OF THIS**
5 **SECTION, THE BOARD SHALL CONSIDER:**

6 **(1) THE POLICY OF THE STATE EXPRESSED IN SUBSECTION (B) OF**
7 **THIS SECTION;**

8 **(2) THE SPECIFIC DUTIES AND RESPONSIBILITIES REQUIRED OF A**
9 **LICENSEE OR CERTIFICATE HOLDER;**

10 **(3) WHETHER THE APPLICANT'S PREVIOUS CONVICTION HAS ANY**
11 **IMPACT ON THE APPLICANT'S FITNESS OR ABILITY TO PERFORM THE DUTIES AND**
12 **RESPONSIBILITIES AUTHORIZED BY THE LICENSE OR CERTIFICATE;**

13 **(4) THE AGE OF THE APPLICANT AT THE TIME OF THE CONVICTION**
14 **AND THE AMOUNT OF TIME THAT HAS ELAPSED SINCE THE CONVICTION;**

15 **(5) THE SERIOUSNESS OF THE OFFENSE FOR WHICH THE APPLICANT**
16 **WAS CONVICTED;**

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

19 **(7) WHETHER THE OCCUPATIONAL LICENSE OR CERTIFICATE**
20 **REQUIRES THE APPLICANT TO BE BONDED;**

21 **(8) OTHER INFORMATION PROVIDED BY THE APPLICANT OR ON THE**
22 **APPLICANT'S BEHALF WITH REGARD TO THE APPLICANT'S REHABILITATION AND**
23 **GOOD CONDUCT; AND**

24 **(9) THE LEGITIMATE INTEREST OF THE BOARD IN PROTECTING**
25 **PROPERTY AND THE SAFETY AND WELFARE OF SPECIFIC INDIVIDUALS OR THE**
26 **GENERAL PUBLIC.**

27 **(F) (1) (I) AN INDIVIDUAL MAY FILE A REQUEST WITH A BOARD FOR**
28 **REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY TO DETERMINE WHETHER THE**
29 **INDIVIDUAL'S CRIMINAL HISTORY WOULD DISQUALIFY THE INDIVIDUAL FROM**
30 **OBTAINING THE OCCUPATIONAL LICENSE OR CERTIFICATE BEING SOUGHT.**

(II) THE DETERMINATION OF A BOARD 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 BOARD UNLESS THERE IS A SUBSEQUENT DIRECT AND MATERIAL ADVERSE CHANGE TO THE INDIVIDUAL'S CRIMINAL HISTORY.

(2) IF A BOARD DETERMINES THAT AN OCCUPATIONAL LICENSE OR CERTIFICATE WOULD BE DENIED TO THE INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD 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 TO A BOARD A REVISED REQUEST FOR A PREDETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THE EARLIER OF:

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

2. ON COMPLETION OF THE REMEDIAL ACTIONS RECOMMENDED BY THE BOARD UNDER PARAGRAPH (2) OF THIS SUBSECTION.

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

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

(G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(H) (1) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §

1 **2-1257 OF THE STATE GOVERNMENT ARTICLE, ON, FOR THE PRECEDING FISCAL**
2 **YEAR FOR EACH BOARD IN THE DEPARTMENT SUBJECT TO THE REQUIREMENTS OF**
3 **THIS SECTION:**

4 **(I) THE NUMBER OF APPLICANTS DENIED A LICENSE OR**
5 **CERTIFICATE;**

6 **(II) THE NUMBER OF APPLICANTS FOR A LICENSE OR**
7 **CERTIFICATE WITH A CRIMINAL HISTORY AND WHETHER THE BOARD TOOK ACTION**
8 **ON EACH APPLICATION;**

9 **(III) THE NUMBER OF APPLICANTS SUBMITTING A REQUEST FOR**
10 **REVIEW UNDER SUBSECTION (F) OF THIS SECTION, AND THE ACTIONS TAKEN FOR**
11 **EACH REVIEW; AND**

12 **(IV) THE OFFENSES FOR WHICH EACH BOARD APPROVED OR**
13 **DENIED A REQUEST UNDER SUBSECTION (F) OF THIS SECTION.**

14 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
15 **SUBSECTION SHALL BE PUBLISHED ON THE DEPARTMENT'S WEBSITE IN A**
16 **SEARCHABLE FORMAT.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That, within 1 year after the
18 enactment of this Act, each board and commission and the Maryland Department of Labor
19 shall update their regulations, forms, websites, and other public documents to describe the
20 provisions and processes established under Section 1 of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2023.