

HOUSE BILL 482

C3, E2

(5lr1190)

ENROLLED BILL

— *Economic Matters/Finance and Education, Energy, and the Environment* —

Introduced by **Delegate Harrison**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of providing that “department” does not include the Maryland Department
5 of Health or the Department of Public Safety and Correctional Services for purposes
6 of certain provisions prohibiting a department from refusing to issue an occupational
7 license or certificate based on a certain conviction under certain circumstances;
8 establishing a predetermination review process for occupational licenses and
9 certificates in certain departments of State government; and generally relating to
10 occupational licensing and certification.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 1–209
14 Annotated Code of Maryland

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.

Italics indicate opposite chamber/conference committee amendments.



(2018 Replacement Volume and 2024 Supplement)

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

Article – Criminal Procedure

1–209.

(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; **OR**

~~(v)~~ **(IV)** 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:

(1) was previously convicted of a crime of violence, as defined in § 14–101
of the Criminal Law Article; **OR**

**(2) IS APPLYING FOR LICENSURE OR LICENSE RENEWAL UNDER
TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

(c) 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.

(d) Except as provided in subsection (f) of this section, 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.

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

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

(f) (1) ~~¶~~ ¶ 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.¶

(G) (1) (I) 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

1 UNLESS THERE IS A SUBSEQUENT DIRECT AND MATERIAL ADVERSE CHANGE TO THE
2 INDIVIDUAL'S CRIMINAL HISTORY.

3 (III) WHEN CONDUCTING A PREDETERMINATION REVIEW
4 REQUESTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A DEPARTMENT
5 SHALL UTILIZE THE EXISTING RESOURCES OF THE DEPARTMENT.

6 (2) IF A DEPARTMENT DETERMINES THAT AN OCCUPATIONAL
7 LICENSE OR CERTIFICATE WOULD BE DENIED TO THE INDIVIDUAL UNDER
8 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL, ~~IF APPLICABLE,~~
9 ~~ADVISE THE INDIVIDUAL OF ANY ACTION THAT MAY BE TAKEN BY THE INDIVIDUAL~~
10 ~~TO REMEDY THE REASON FOR THE DISQUALIFICATION~~ PROVIDE THE INDIVIDUAL
11 WITH AN EXPLANATION FOR ITS DETERMINATION, INCLUDING THE BASIS UNDER
12 SUBSECTION (D) OF THIS SECTION.

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

18 ~~(H) AN INDIVIDUAL MAY SUBMIT A REVISED REQUEST FOR A~~
19 ~~PREDETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THE EARLIER~~
20 ~~OF:~~

21 ~~1. 1 YEAR AFTER THE DATE THE INDIVIDUAL RECEIVED~~
22 ~~THE PREDETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR~~

23 ~~2. ON COMPLETION OF THE REMEDIAL ACTIONS~~
24 ~~RECOMMENDED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION~~
25 IF:

26 (I) 1 YEAR HAS PASSED SINCE THE INDIVIDUAL RECEIVED THE
27 PREDETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

28 (II) THERE IS A MATERIAL CHANGE TO THE INDIVIDUAL'S
29 CRIMINAL HISTORY.

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

33 (II) THE FEE CHARGED UNDER SUBPARAGRAPH (I) OF THIS
34 PARAGRAPH MAY BE WAIVED IF THE INDIVIDUAL'S INCOME IS AT OR BELOW 300%

1 OF THE FEDERAL POVERTY LEVEL, AS DETERMINED BY THE DISTRICT COURT OF
2 MARYLAND.

3 ~~(G)~~ (H) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

4 (1) OVERRIDE, SUPERSEDE, OR INVALIDATE ANY COMPACT OR
5 AGREEMENT ALREADY IN PLACE WITH REGARD TO THE REGULATION OF ANY
6 PROFESSION OR OCCUPATION BY A DEPARTMENT; OR

7 (2) SUPERSEDE THE AUTHORITY OF A DEPARTMENT TO REQUIRE AN
8 APPLICANT OR A LICENSEE TO SUBMIT TO A CRIMINAL HISTORY RECORDS REVIEW
9 IN ACCORDANCE WITH THIS SECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, *That, on or before October 1, 2027,*
11 *the Department of Agriculture, the Department of the Environment, the Department of*
12 *Human Services, and the Maryland Department of Labor shall each report to the Senate*
13 *Finance Committee and the House Economic Matters Committee, in accordance with §*
14 *2-1257 of the State Government Article, on the implementation of Section 1 of this Act,*
15 *including the number of predetermination requests conducted and the costs associated with*
16 *implementation.*

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 ~~October 1, 2025~~ *July 1, 2025. It shall remain effective for a period of 3 years and, at the end*
19 *of June 30, 2028, this Act, with no further action required by the General Assembly, shall be*
20 *abrogated and of no further force and effect.*

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.