AUG 11 2022

BUREAU OF LEGISLATIVE RESEARCH

Article XXIII: PRE-LICENSURE CRIMINAL BACKGROUND CHECK

- A. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- B. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- C. The Board will respond with a decision in writing to a completed petition within a reasonable time.
- D. The Board's response will state the reason(s) for the decision.
- E. All decisions of the Board in response to the petition will be determined by information provided by the individual.
- F. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
- G. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

Waiver Request

- A. If an individual has been convicted of an offense listed in A.C.A. §17-2-102(a) or (e), except those permanently disqualifying offenses found in subsection (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
 - 1. An affected application for a license; or
 - 2. An individual holding a license subject to revocation.
- B. The Board may grant a waiver upon consideration of the following, without limitation:
 - 1. The age at which the offense was committed;
 - 2. The circumstances surrounding the offense;
 - 3. The length of time since the offense was committed;
 - 4. Subsequent work history since the offense was committed;
 - 5. Employment references since the offense was committed;
 - 6. Character references since the offense was committed:
 - 7. Relevance of the offense to the occupational license; and
 - 8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- C. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
- D. The Board will respond with a decision in writing and will state the reasons for the decision.

Approved 5-9-2020.

<u>MARKUP</u>

Date:			
Contact Information:			
Name:			_
Address:			
City:	State:	Zip Code:	
Phone Number:			
Email:			
Criminal Record Information (an conviction, sentencing, and prob	ttach copies of ation/parole in	supporting documentati formation):	ion, including
By signing this petition:			
I swear or affirm that the statement documentation) are true and correlation.	nts contained h ect and that I a	verein (and included on a lo not misrepresent any i	my attached nformation contained
I acknowledge that, in addition to criminal background check at my	this petition, I own expense.	may be required to unde	rgo a state and federal
I acknowledge that any decision n has been a change to the provided	nade in respon: l information d	se to this petition is subje turing the formal applica	ect to change if there tion process.
Lacknowledge that any decision needed aspect of the licensing pro	nade in respons ocess and does	se to this petition only ap not guarantee licensure.	oplies to the criminal
Lacknowledge that any decision n	nade in respon.	se to this petition is not s	ubject to appeal.
Signature:		Date:	

Stricken language would be deleted from and underlined language would be added to present law. Act 748 of the Regular Session

1	State of Arkansas
2	93rd General Assembly A Bill
3	Regular Session, 2021 HOUSE BILL 179
4	
5	By: Representative Cozart
6	By: Senator Hill
7	
8	For An Act To Be Entitled
9	AN ACT TO AMEND OCCUPATIONAL CRIMINAL BACKGROUND
LO	CHECKS; AND FOR OTHER PURPOSES.
l 1	
12	
13	Subtitle
L4	TO AMEND OCCUPATIONAL CRIMINAL
15	BACKGROUND CHECKS.
16	
l 7	
18	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
L 9	
20	SECTION 1. Arkansas Code § 17-3-102(b)(1), concerning licensing
21	restrictions based on criminal records, is amended to read as follows:
22	(b)(l) If an individual has been convicted of a crime listed in
23	subsection (a) or subsection (e) of this section, a licensing entity may
24	waive disqualification or revocation of a license based on the conviction if
25	a request for a waiver is made by:
26	(A) An affected applicant for a license; or
27	(B) The individual holding a license subject to
28	revocation.
29	
30	SECTION 2. Arkansas Code § 17-3-102(e), concerning licensing
31	restrictions based on criminal records, is amended to read as follows:
32	(e) Due to the serious nature of the offenses, the following shall
33	result in permanent disqualification for licensure, regardless of the date of
34	conviction or the date on which probation or incarceration ends unless a
35	waiver is granted under subsection (b) of this section:
36	(1) Capital murder as prohibited in § 5-10-101:

1	(2) Murder in the first degree as prohibited in \S 5-10-102 and
2	murder in the second degree as prohibited in § 5-10-103;
3	(3) Kidnapping as prohibited in § 5-11-102;
4	(4) Aggravated assault upon a law enforcement officer or an
5	employee of a correctional facility as prohibited in § 5-13-211, if a Class Y
6	felony;
7	(5) Rape as prohibited in § 5-14-103;
8	(6) Sexual extortion as prohibited in § 5-14-113;
9	(7) Sexual assault in the first degree as prohibited in § 5-14-
10	124 and sexual assault in the second degree as prohibited in § 5-14-125;
11	(8) Incest as prohibited in § 5-26-202;
12	(9) Endangering the welfare of an incompetent person in the
13	first degree as prohibited in § 5-27-201;
14	(10) Endangering the welfare of a minor in the first degree as
15	prohibited in § 5-27-205;
16	(11) Adult abuse that constitutes a felony as prohibited in § 5-
17	28-103; and
18	(12) Arson as prohibited in § 5-38-301.
19	
20	SECTION 3. Arkansas Code § 17-3-102(g), concerning licensing
21	restrictions based on criminal records, is amended to read as follows:
22	(g) The permanent disqualification for an offense listed in subsection
23	(a) or subsection (e) of this section does not apply to an individual who
24	holds a valid license on July 24, 2019.
25	
26	
27	APPROVED: 4/19/21
28	
29	
30	
31	
32	
33	
34	
35	
36	