

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1303

5 By: Representative Cozart
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE RED TAPE REDUCTION OCCUPATIONAL
9 LICENSING RELEVANCE CRIMINAL BACKGROUND CHECK ACT; TO
10 ESTABLISH THAT OCCUPATIONAL LICENSING ENTITIES MAY
11 CONSIDER OCCUPATIONAL RELEVANCE WITH REGARD TO
12 CRIMINAL BACKGROUND CHECKS; TO REQUIRE CRIMINAL
13 BACKGROUND CHECKS FOR APPLICANTS TO OCCUPATIONAL
14 PROGRAMS, TRAINING, AND SCHOOLS; AND FOR OTHER
15 PURPOSES.
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Subtitle

18 TO CREATE THE RED TAPE REDUCTION
19 OCCUPATIONAL LICENSING RELEVANCE CRIMINAL
20 BACKGROUND CHECK ACT; AND TO CONSIDER
21 OCCUPATIONAL RELEVANCE WITH REGARD TO
22 CRIMINAL BACKGROUND CHECKS.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. DO NOT CODIFY. Title.

29 This act shall be known and may be cited as the "Red Tape Reduction
30 Occupational Licensing Relevance Criminal Background Check Act".
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32 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

33 (a) The General Assembly finds that:

34 (1) Arkansas is taking a leading role in the nationwide pursuit
35 of reforms to the system of occupational licensing;

36 (2) Arkansas became one (1) of eleven (11) states chosen to



1 participate in the Occupational Licensing Policy Learning Consortium, an
 2 initiative funded by a grant from the United States Department of Labor and
 3 supported in partnership with the National Conference of State Legislatures,
 4 the Council of State Governments, and the National Governors Association;

5 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
 6 to the Red Tape Reduction Working Group to review and address occupational
 7 licensing regulations that create unnecessary barriers to labor market entry;
 8 and

9 (4) The Red Tape Reduction Working Group issued a final report
 10 to the Governor in the fall of 2018 with five (5) recommendations for
 11 substantive legislative reform, which are to:

12 (A) Establish an expedited procedure for occupational
 13 licensing entities to collectively submit administrative rules that are
 14 responsive to new legislation;

15 (B) Extend Acts 2017, No. 781, to allow repeal of
 16 subsections of rules;

17 (C) Establish provisions to allow certain agencies to
 18 consider occupational relevance with regard to criminal background issues;

19 (D) Authorize occupational licensing entities to identify
 20 types of individuals or entities that may be issued temporary or provisional
 21 licenses; and

22 (E) Establish a systematic process for review of:

23 (i) New occupational licensure and occupational
 24 licensing entities; and

25 (ii) Existing occupational licensure and
 26 occupational licensing entities.

27 (b) It is the intent of the General Assembly to establish provisions
 28 to allow certain agencies to consider occupational relevance with regard to
 29 criminal background issues.

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 31 SECTION 3. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended
 32 to add additional sections to read as follows:

33 17-1-108. Occupational relevance regarding criminal background checks.

34 (a) As used in this section:

35 (1) "Occupational licensing entity" means an office, board,
 36 commission, department, council, bureau, or other agency of state government

1 having authority to license, certify, register, permit, or otherwise
 2 authorize an individual to engage in a particular occupation or profession;
 3 and

4 (2) "Occupational licensure" means a license, certificate,
 5 registration, permit, or other form of authorization required by law or a
 6 rule that is required for an individual to engage in a particular occupation
 7 or profession.

8 (b)(1) An occupational licensing entity may waive disqualification or
 9 revocation of an occupational licensure for an offense listed within the
 10 licensing requirements of the Arkansas Code when a person has pleaded guilty
 11 or nolo contendere to or has been found guilty of any listed offense upon the
 12 request of:

13 (A) An affected applicant for licensure; or

14 (B) The person holding a license subject to revocation.

15 (2) A basis upon which a waiver may be granted includes without
 16 limitation:

17 (A) The age at which the offense was committed;

18 (B) The circumstances surrounding the offense;

19 (C) The length of time since the offense was committed;

20 (D) Subsequent work history since the offense was committed;

21 (E) Employment references since the offense was committed;

22 (F) Character references since the offense was committed;

23 (G) Relevance of the offense to the occupational licensure; and

24 (H) Other evidence demonstrating that licensure of the applicant
 25 does not pose a threat to the health or safety of the public.

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 27 17-1-109. Pre-licensure criminal background checks.

28 (a) An occupational education program, training, or school shall
 29 establish criteria by which the passage of the criminal background check is
 30 determined based upon the occupational criteria for licensure.

31 (b) Upon application to an occupational education program, training,
 32 or school, the applicant shall undergo a state and federal criminal
 33 background check.

34 (c) The applicant shall be responsible for payment for a state and
 35 federal criminal background check.

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