

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S2/5/19 S2/13/19*

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 175

4

5 By: Senators J. Cooper, B. Ballinger, B. Johnson, G. Stubblefield, D. Wallace

6 By: Representatives Cozart, L. Fite

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For An Act To Be Entitled

9 AN ACT TO REQUIRE DISCRETION IN REVIEWING CERTAIN
10 FACTORS BEFORE DISQUALIFYING AN APPLICANT FOR
11 OCCUPATIONAL LICENSURE; TO AUTHORIZE CRIMINAL
12 BACKGROUND CHECKS BEFORE APPLYING FOR OCCUPATIONAL
13 LICENSURE; AND FOR OTHER PURPOSES.

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Subtitle

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18 TO REQUIRE DISCRETION IN REVIEWING
19 CERTAIN FACTORS BEFORE DISQUALIFYING AN
20 APPLICANT FOR OCCUPATIONAL LICENSURE; AND
21 TO AUTHORIZE CRIMINAL BACKGROUND CHECKS
22 BEFORE APPLYING FOR OCCUPATIONAL
23 LICENSURE.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. DO NOT CODIFY. Legislative findings and intent.

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(a) The General Assembly finds that:

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

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(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

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(3) Governor Asa Hutchinson appointed seventeen (17) individuals

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1 to the Red Tape Reduction Working Group to review and address occupational
2 licensing regulations that create unnecessary barriers to labor market entry;
3 and

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

7 (A) Establish an expedited procedure for occupational
8 licensing entities to collectively submit administrative rules that are
9 responsive to new legislation;

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

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

14 (D) Authorize occupational licensing entities to identify
15 types of individuals or entities that may be issued temporary or provisional
16 licenses; and

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

18 (i) New occupational licensure and occupational
19 licensing entities; and

20 (ii) Existing occupational licensure and
21 occupational licensing entities.

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

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26 SECTION 2. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended
27 to add additional sections to read as follows:

28 17-1-108. Occupational relevance regarding criminal background checks.

29 (a) As used in this section and § 17-1-109:

30 (1) "Occupational licensing entity" means an office, board,
31 commission, department, council, bureau, or other agency of state government
32 having authority to license, certify, register, permit, or otherwise
33 authorize an individual to engage in a particular occupation or profession;
34 and

35 (2) "Occupational licensure" means a license, certificate,
36 registration, permit, or other form of authorization required by law or a

1 rule that is required for an individual to engage in a particular occupation
2 or profession.

3 (b)(1) An occupational licensing entity with the authority to waive
4 disqualification or revocation of an occupational licensure for an offense
5 listed within the licensing requirements of the Arkansas Code when a person
6 has pleaded guilty or nolo contendere to or has been found guilty of any
7 listed offense shall consider the following:

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

9 (B) The circumstances surrounding the offense;

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

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

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

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

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

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

17 (2) The grant of a waiver may be considered upon the request of:

18 (A) An affected applicant for occupational licensure; or

19 (B) A person holding an occupational license subject to
20 revocation.

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22 17-1-109. Pre-licensure criminal background checks.

23 (a) An occupational licensing entity shall establish criteria that
24 indicate the passage of a criminal background check based upon the criteria
25 for occupational licensure.

26 (b) Before applying for occupational licensure, an individual may
27 request an informal appearance before the occupational licensing entity to
28 determine whether he or she would pass the criminal background check and if
29 he or she could obtain a waiver under § 17-1-108.

30 (c)(1) Upon a request for an informal appearance under subsection (b)
31 of this section, an occupational licensing entity may require that the
32 applicant undergo a state and federal criminal background check as required
33 by the occupational licensing entity for all applicants for occupational
34 licensure.

35 (2) The requestor under subsection (b) of this section shall be
36 responsible for payment for a state and federal criminal background check.

1 (d)(1) An occupation licensing entity shall promulgate rules necessary
2 to implement this section.

3 (2)(A) When adopting the initial rules to implement this
4 section, the final rule shall be filed with the Secretary of State for
5 adoption under § 25-15-204(f):

6 (i) On or before January 1, 2020; or

7 (ii) If approval under § 10-3-309 has not occurred
8 by January 1, 2020, as soon as practicable after approval under § 10-3-309.

9 (B) An occupational licensing entity shall file the
10 proposed rule with the Legislative Council under § 10-3-309(c) sufficiently
11 in advance of January 1, 2020, so that the Legislative Council may consider
12 the rule for approval before January 1, 2020.

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15 /s/J. Cooper
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