

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

As Engrossed: S2/5/19

# A Bill

SENATE BILL 175

5 By: Senator J. Cooper  
6

## For An Act To Be Entitled

8 AN ACT TO REQUIRE DISCRETION IN REVIEWING CERTAIN  
9 FACTORS BEFORE DISQUALIFYING AN APPLICANT FOR  
10 OCCUPATIONAL LICENSURE; TO AUTHORIZE CRIMINAL  
11 BACKGROUND CHECKS BEFORE APPLYING FOR OCCUPATIONAL  
12 LICENSURE; AND FOR OTHER PURPOSES.  
13  
14

### Subtitle

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

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

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

27 (a) The General Assembly finds that:

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

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

35 (3) Governor Asa Hutchinson appointed seventeen (17) individuals  
36 to the Red Tape Reduction Working Group to review and address occupational



1 licensing regulations that create unnecessary barriers to labor market entry;  
2 and

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

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

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

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

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

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

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

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

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

24

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

27 17-1-108. Occupational relevance regarding criminal background checks.

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

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

34 (2) "Occupational licensure" means a license, certificate,  
35 registration, permit, or other form of authorization required by law or a  
36 rule that is required for an individual to engage in a particular occupation

1 or profession.

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

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

8 (B) The circumstances surrounding the offense;

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

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

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

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

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

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

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

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

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

20  
21 17-1-109. Pre-licensure criminal background checks.

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

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

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

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

36 (d)(1) An occupational licensing entity shall promulgate rules necessary

1 to implement this section.

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

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

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

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

12  
13  
14 /s/J. Cooper  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36