

MARKUP

## Article XXIII: PRE-LICENSURE CRIMINAL BACKGROUND CHECK

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- 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.



1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

HOUSE BILL 1796

4  
5 By: Representative Cozart  
6 By: Senator Hill

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND OCCUPATIONAL CRIMINAL BACKGROUND  
10 CHECKS; AND FOR OTHER PURPOSES.

### Subtitle

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13 TO AMEND OCCUPATIONAL CRIMINAL  
14 BACKGROUND CHECKS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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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)(1) 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.  
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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 § 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.

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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.

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27 APPROVED: 4/19/21

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