

SB79 INTRODUCED



1 SB79
2 JHSENYF-1
3 By Senators Smitherman, Orr, Singleton, Stewart
4 RFD: Judiciary
5 First Read: 07-Feb-24



SYNOPSIS:

Under existing law, certain occupational licensing boards may automatically disqualify an applicant convicted of a felony from licensure unless the individual has received an order of limited relief granted by a circuit court, in which case the occupational licensing board may not automatically disqualify the individual but may consider the conduct underlying the conviction when determining whether to disqualify the individual from licensure.

This bill would require an occupational licensing board, when requested by an individual, to determine, based on a number of factors, whether that individual's criminal conviction disqualifies him or her from obtaining an occupational license.

This bill would require an occupational licensing board to publish on its official website a list of all criminal offenses that disqualify an individual from licensure.

This bill would prohibit an occupational licensing board, absent applicable state law, from using certain vague terms in rules as a reason for disqualification from licensure and from considering an applicant's criminal record except when the offense specifically and directly relates to the duties and



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responsibilities of the licensed occupation.

This bill would also repeal the laws relating to providing for, petitioning for, and obtaining an order of limited relief.

A BILL
TO BE ENTITLED
AN ACT

Relating to occupational licensing boards; to amend Section 41-9A-2, Code of Alabama 1975; to require an occupational licensing board to determine whether an individual's criminal conviction disqualifies him or her from obtaining an occupational license in certain circumstances; to add Section 41-9A-2.1 to the Code of Alabama 1975, to prohibit an occupational licensing board from using certain terms in rulemaking as reasons for disqualification from licensure and to limit the circumstances under which an occupational licensing board may consider an individual's criminal record when determining if the individual qualifies for licensure; to repeal Chapter 26 of Title 12, Code of Alabama 1975, relating to orders of limited relief; and to require occupational licensing boards to include certain information on official websites.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-9A-2, Code of Alabama 1975, is amended to read as follows:



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"§41-9A-2

(a) ~~When applying for a license, an applicant may attach to the application a valid order of limited relief granted under Section 12-26-9~~ An individual who has been convicted of any criminal offense, at any time, may request that an occupational licensing board determine whether the individual's criminal conviction disqualifies the individual from obtaining a license from the board. Any individual making a request shall include details of the individual's criminal conviction and any required fee as provided in subsection (c).

(b) An occupational licensing board ~~may not automatically deny an application for a license or revoke an existing license because of a criminal conviction when a valid order of limited relief has been issued for the otherwise disqualifying conviction or convictions in question; provided, however, an occupational licensing board may consider the conduct underlying a conviction upon which an order of limited relief was granted and may deny, revoke, or suspend a license based on that underlying conduct~~ shall make a determination and inform the requesting individual of its decision not later than 30 days after receiving a request. An occupational licensing board shall support any adverse decision with clear and convincing evidence. Absent applicable state law, the board shall make its determination based on the following factors:

(1) The nature and seriousness of the crime for which the individual was convicted.

(2) The passage of time since the commission of the



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crime.

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation.

(4) Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against a direct relation.

(c) An occupational licensing board may charge a fee of not more than twenty dollars (\$20) per request to reimburse the board for costs incurred in making a determination.

(d) An occupational licensing board shall make available to the public on the occupational licensing board's official website a list of all criminal offenses that may disqualify an individual from obtaining a license.

~~(e)~~ (e) This section does not apply to law enforcement employment, Alabama Peace Officers' Standards and Training Commission certification, or the issuance of ~~drivers'~~ driver licenses.

(f) An occupational licensing board may adopt rules to implement this section."

Section 2. Section 41-9A-2.1 is added to the Code of Alabama to read as follows:

§41-9A-2.1

(a) Absent applicable state law, an occupational licensing board may not adopt in any rule providing for qualifications for licensure vague or generic terms, including, but not limited to, "moral turpitude," "any felony," or "good character."



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113 (b) Absent applicable state law, an occupational
114 licensing board may only consider criminal records that are
115 specific and directly related to the duties and
116 responsibilities for the licensed occupation when evaluating
117 applicants.

118 Section 3. Chapter 26 of Title 12, comprised of Section
119 12-26-1 through 12-26-11, Code of Alabama 1975, relating to
120 petitions for order of limited relief, is repealed.

121 Section 4. This act shall become effective on October
122 1, 2024.