

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 15, 2024
Date

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB24-1004 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 12-20-206 as
4 follows:

5 **12-20-206. Regulators - consideration of criminal records -**
6 **petition process - denials - definition.** (1) AS USED IN THIS SECTION,
7 "DIRECTLY RELATED TO" MEANS THAT THE CRIMINAL OFFENSE FOR WHICH
8 THE APPLICANT HAS BEEN CONVICTED HAS A SPECIFIC ELEMENT THAT IS
9 STILL RELEVANT AT THE TIME OF THE INDIVIDUAL'S APPLICATION FOR A
10 REGISTRATION, CERTIFICATION, OR LICENSE, WHICH WOULD MAKE THE
11 INDIVIDUAL UNABLE TO SUCCESSFULLY PRACTICE THE PROFESSION OR
12 OCCUPATION IN WHICH THE INDIVIDUAL HAS APPLIED OR PETITIONED FOR
13 DETERMINATION OF QUALIFICATION.

14 (2) IF AN APPLICANT HAS A VALID CONVICTION FOR A CRIME, THE
15 REGULATOR MAY ONLY CONSIDER THE APPLICANT'S CONVICTION FOR A
16 THREE-YEAR PERIOD BEGINNING ON THE DATE OF CONVICTION OR THE END
17 OF INCARCERATION, WHICHEVER DATE IS LATER, IF THE APPLICANT HAS
18 NOT BEEN CONVICTED OF ANY OTHER CRIMINAL OFFENSE DURING THE
19 THREE-YEAR PERIOD. AFTER THE THREE-YEAR PERIOD, THE REGULATOR
20 SHALL ONLY CONSIDER THE INDIVIDUAL'S APPLICATION FOR
21 REGISTRATION, CERTIFICATION, OR LICENSURE IN THE SAME MANNER AS
22 AN APPLICANT WHO DOES NOT POSSESS A PRIOR CRIMINAL RECORD;
23 EXCEPT THAT THE REGULATOR MAY CONSIDER A CONVICTION FOR A CRIME
24 THAT IS DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION FOR
25 WHICH THE INDIVIDUAL HAS APPLIED FOR REGISTRATION, CERTIFICATION,
26 OR LICENSURE.

27 (3) (a) IF A REGULATOR IS CONSIDERING AN APPLICANT'S CRIMINAL

1 RECORD DURING THE APPLICATION PROCESS FOR REGISTRATION,
2 CERTIFICATION, OR LICENSURE, A REGULATOR MAY ONLY DENY OR REFUSE
3 TO RENEW THE REGISTRATION, CERTIFICATION, OR LICENSE IF THE
4 REGULATOR DETERMINES THAT THE APPLICANT HAS NOT BEEN
5 REHABILITATED AND IS UNABLE TO PERFORM THE DUTIES AND
6 RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION.

7 (b) AN APPLICANT'S CONVICTION FOR A CRIME DOES NOT, IN AND
8 OF ITSELF, DISQUALIFY THE APPLICANT FROM BEING ISSUED A
9 REGISTRATION, CERTIFICATION, OR LICENSE.

10 (4) (a) AN INDIVIDUAL WHOSE CONVICTION MAY AFFECT THE
11 INDIVIDUAL'S APPLICATION FOR REGISTRATION, CERTIFICATION, OR
12 LICENSURE MAY PETITION AT ANY TIME, INCLUDING WHILE INCARCERATED
13 OR BEFORE OBTAINING ANY REQUIRED PERSONAL QUALIFICATIONS, FOR A
14 DECISION FROM A REGULATOR AS TO WHETHER A REGULATOR MAY
15 CONSIDER THE INDIVIDUAL'S CRIMINAL RECORD WHEN REVIEWING THE
16 INDIVIDUAL'S APPLICATION FOR A REGISTRATION, CERTIFICATION, OR
17 LICENSE.

18 (b) AN INDIVIDUAL WHO PETITIONS A REGULATOR SHALL INCLUDE
19 IN THE PETITION:

20 (I) THE INDIVIDUAL'S CRIMINAL RECORD OR AUTHORIZATION FOR
21 THE REGULATOR TO OBTAIN THE INDIVIDUAL'S CRIMINAL RECORD; AND

22 (II) ANY ADDITIONAL INFORMATION ABOUT THE INDIVIDUAL'S
23 CURRENT CIRCUMSTANCES, INCLUDING THE TIME SINCE THE CRIMINAL
24 OFFENSE WAS COMMITTED AND THE SENTENCE WAS COMPLETED, THE
25 PAYMENT OF ANY COURT-ORDERED RESTITUTION, EVIDENCE OF
26 REHABILITATION, TESTIMONIALS, EMPLOYMENT HISTORY, AND
27 EMPLOYMENT ASPIRATIONS.

28 (c) IF A REGULATOR DETERMINES THAT A PETITIONER'S
29 CONVICTION WILL LIKELY BE CONSIDERED, THE REGULATOR SHALL ADVISE
30 THE PETITIONER OF ANY ACTIONS THE PETITIONER MAY TAKE TO REMEDY
31 THE DISQUALIFICATION. IF REMEDIAL ACTION IS ADVISED BY THE
32 REGULATOR, THE PETITIONER MAY SUBMIT A REVISED PETITION ON OR
33 BEFORE A DATE SET BY THE REGULATOR FOR COMPLETION OF THE
34 REMEDIAL ACTIONS.

35 (d) A REGULATOR WHO MAKES AN INITIAL DETERMINATION
36 PURSUANT TO THIS SUBSECTION (4) MAY REQUIRE A NEW DETERMINATION
37 AT THE TIME AN INDIVIDUAL FORMALLY APPLIES FOR REGISTRATION,
38 CERTIFICATION, OR LICENSURE.

39 (5) IN ORDER TO DENY AN APPLICATION FOR REGISTRATION,
40 CERTIFICATION, OR LICENSURE PURSUANT TO THIS SECTION, A REGULATOR
41 BEARS THE BURDEN OF PROOF TO SHOW BY CLEAR AND CONVINCING
42 EVIDENCE THAT THE DENIAL DIRECTLY CONNECTS INFORMATION IN AN
43 APPLICANT'S CRIMINAL RECORD TO POTENTIAL PERFORMANCE IN THE

1 PARTICULAR OCCUPATION OR PROFESSION FOR WHICH THE APPLICANT IS
2 APPLYING FOR REGISTRATION, CERTIFICATION, OR LICENSURE.

3 (6) THIS SECTION DOES NOT:

4 (a) NEGATE ANY PROVISION FOR REGISTRATION, CERTIFICATION,
5 OR LICENSURE IN THIS TITLE 12 THAT REQUIRES AN APPLICANT TO SUBMIT
6 INFORMATION REGARDING THE APPLICANT'S CRIMINAL HISTORY TO A
7 REGULATOR WITH AN APPLICATION;

8 (b) NEGATE ANY OTHER REASON SPECIFIED IN THIS TITLE 12 FOR
9 WHICH A REGULATOR MAY DENY AN APPLICANT REGISTRATION,
10 CERTIFICATION, OR LICENSURE FOR A PROFESSION OR AN OCCUPATION;

11 (c) NEGATE ANY REQUIREMENT UNDER FEDERAL LAW THAT
12 REQUIRES AN INDIVIDUAL TO OBTAIN OR MAINTAIN A REGISTRATION,
13 CERTIFICATION, OR LICENSURE;

14 (d) NEGATE THE LIST OF DETERMINING FACTORS THAT SHALL NOT
15 BE CONSIDERED REGARDING AN APPLICANT'S CRIMINAL RECORD IN
16 SECTION 24-5-101 (2)(b); OR

17 (e) CREATE LIABILITY FOR AN EMPLOYER THAT FAILS TO HIRE AN
18 INDIVIDUAL WHO HAS A REGISTRATION, CERTIFICATION, OR LICENSE
19 PURSUANT TO THIS TITLE 12.

20 **SECTION 2.** In Colorado Revised Statutes, 12-20-202, **amend**
21 (5) as follows:

22 **12-20-202. Licenses, certifications, and registrations - renewal**
23 **- reinstatement - fees - occupational credential portability program**
24 **- temporary authority for military spouses - exceptions for military**
25 **personnel - rules - consideration of criminal convictions or driver's**
26 **history - executive director authority - definitions. (5) Criminal**
27 **convictions.** Unless there is a specific statutory disqualification that
28 prohibits an applicant from obtaining licensure, certification, or
29 registration based on a criminal conviction, if a regulator determines that
30 an applicant for licensure, certification, or registration has a criminal
31 record, the regulator is governed by ~~section~~ SECTIONS 12-20-206 AND
32 24-5-101 for purposes of granting or denying, or placing any conditions
33 on, licensure, certification, or registration.

34 **SECTION 3.** In Colorado Revised Statutes, 24-5-101, **amend**
35 (1)(a), (2)(a), (2)(b) introductory portion, (3)(b)(I), (3)(c) introductory
36 portion, (4) introductory portion, and (7) introductory portion as follows:

37 **24-5-101. Effect of criminal conviction on employment rights**
38 **- fee - determination.** (1)(a) Except as otherwise provided in subsection
39 (1)(b) of this section, the fact that a person has been convicted of a felony
40 or other offense ~~involving moral turpitude~~ shall not, in and of itself,
41 prevent the person from applying for and obtaining public employment
42 or from applying for and receiving a license, certification, permit, or
43 registration required by the laws of this state to follow any business,

1 occupation, or profession.

2 (2) (a) (I) ~~Whenever any~~ WHEN A state or local agency is required
3 to make a finding that an applicant for a license, certification, permit, or
4 registration is a person of good moral character as a condition ~~to the~~
5 ~~issuance thereof~~ OF ISSUING THE LICENSE, CERTIFICATION, PERMIT, OR
6 REGISTRATION, or IS REQUIRED TO evaluate the impact of an applicant's
7 criminal record, the fact that such applicant has, at some time ~~prior~~
8 ~~thereto~~, been convicted of a felony or other offense, ~~involving moral~~
9 ~~turpitude, and~~ THE STATE OR LOCAL AGENCY SHALL GIVE CONSIDERATION
10 TO pertinent circumstances connected with ~~such~~ THE conviction ~~shall be~~
11 ~~given consideration~~ in determining whether ~~in fact~~, the applicant is
12 qualified. The intent of this section is to expand employment
13 opportunities for persons who, notwithstanding that fact of conviction of
14 an offense, have been rehabilitated and are ready to accept the
15 responsibilities of a law-abiding and productive member of society.

16 (II) A STATE AGENCY MAKING A FINDING PURSUANT TO
17 SUBSECTION (2)(a)(I) OF THIS SECTION MAY ONLY CONSIDER CONVICTIONS
18 PURSUANT TO SECTION 12-20-206.

19 (b) In evaluating an applicant, ~~an~~ A LOCAL agency shall comply
20 with subsection (4) of this section and A STATE OR LOCAL AGENCY shall
21 not use the determination of the following information as a basis for
22 denial or taking adverse action against any applicant otherwise qualified:

23 (3) (b) (I) With the exception of the department of corrections and
24 the department of public safety, the LOCAL agency shall not perform a
25 background check until the agency determines that an applicant is a
26 finalist or makes a conditional offer of employment to the applicant.

27 (c) If, after determining that an applicant is a finalist or after
28 making a conditional offer of employment to an applicant, the LOCAL
29 agency determines that the applicant has a criminal history, the LOCAL
30 agency shall comply with subsection (4) of this section and shall not use
31 the determination of the following information as a basis for not making
32 an offer of employment or for withdrawing the conditional offer of
33 employment:

34 (4) Except as provided in subsection (6) of this section, when
35 considering an applicant for a license, certification, permit, or registration
36 pursuant to subsection (2) of this section or, if, after determining that an
37 applicant is a finalist or making a conditional offer of employment to an
38 applicant, the LOCAL agency determines that the applicant has a
39 conviction other than as described in subsection (2)(b) or (3)(c) of this
40 section, the LOCAL agency shall consider the following factors when
41 determining whether the conviction disqualifies the applicant:

42 (7) Before a ~~state or~~ local agency makes a final determination that
43 a criminal conviction disqualifies an applicant from receiving a license,

1 certification, permit, or registration, the agency shall provide the applicant
2 with written notice that describes:

3 **SECTION 4. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly; except that, if a referendum petition is filed pursuant
7 to section 1 (3) of article V of the state constitution against this act or an
8 item, section, or part of this act within such period, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2024 and, in such case, will take
11 effect on the date of the official declaration of the vote thereon by the
12 governor.

13 (2) This act applies to applications for registration, certification,
14 permitting, or licensure submitted on or after the applicable effective date
15 of this act."

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