

CHAPTER 371

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 24-1004

BY REPRESENTATIVE(S) Bacon and Bird, Amabile, Boesenecker, Brown, Clifford, deGruy Kennedy, English, Epps, Froelich, Garcia, Hamrick, Hernandez, Herod, Jodeh, Kipp, Lindsay, Lindstedt, Mabrey, Marshall, Ortiz, Parenti, Ricks, Rutinel, Sirota, Snyder, Soper, Vigil, Weinberg, Weissman, Young, McCluskie;
also SENATOR(S) Coleman, Baisley, Buckner, Cutter, Exum, Gonzales, Hansen, Jaquez Lewis, Kirkmeyer, Liston, Marchman, Michaelson Jenet, Mullica, Pelton R., Priola, Roberts.

AN ACT

CONCERNING THE ABILITY OF EX-OFFENDERS TO RECEIVE AUTHORIZATION TO PRACTICE IN STATE-REGULATED OCCUPATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

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

12-20-206. Regulators - consideration of criminal records - petition process - denials - definition. (1) AS USED IN THIS SECTION, "DIRECTLY RELATED TO" MEANS THAT THE CRIMINAL OFFENSE FOR WHICH THE APPLICANT HAS BEEN CONVICTED IS STILL RELEVANT AT THE TIME OF THE INDIVIDUAL'S APPLICATION FOR A REGISTRATION, CERTIFICATION, OR LICENSE, WHICH WOULD CREATE AN UNREASONABLE RISK TO PUBLIC SAFETY BECAUSE THE OFFENSE DIRECTLY RELATES TO THE DUTIES AND RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION IN WHICH THE INDIVIDUAL HAS APPLIED OR PETITIONED FOR DETERMINATION OF QUALIFICATION, AS DETERMINED BY A REGULATOR AFTER CONSIDERATION OF ALL EVIDENCE AVAILABLE TO THE REGULATOR.

(2) IF AN APPLICANT HAS A CONVICTION FOR A CRIME, A REGULATOR MAY ONLY CONSIDER THE APPLICANT'S CONVICTION FOR A THREE-YEAR PERIOD BEGINNING ON THE DATE OF CONVICTION OR THE END OF INCARCERATION, WHICHEVER DATE IS LATER, IF THE APPLICANT HAS NOT BEEN CONVICTED OF ANY OTHER CRIMINAL OFFENSE DURING THE THREE-YEAR PERIOD. AFTER THE THREE-YEAR PERIOD, THE REGULATOR SHALL ONLY CONSIDER THE INDIVIDUAL'S APPLICATION FOR REGISTRATION, CERTIFICATION, OR LICENSURE IN THE SAME MANNER AS AN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

APPLICANT WHO DOES NOT POSSESS A PRIOR CRIMINAL RECORD; EXCEPT THAT THE REGULATOR MAY CONSIDER A CONVICTION FOR A CRIME THAT IS DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION FOR WHICH THE INDIVIDUAL HAS APPLIED FOR REGISTRATION, CERTIFICATION, OR LICENSURE.

(3) (a) IF A REGULATOR IS CONSIDERING AN APPLICANT'S CRIMINAL RECORD DURING THE APPLICATION PROCESS FOR REGISTRATION, CERTIFICATION, OR LICENSURE, A REGULATOR MAY ONLY DENY OR REFUSE TO RENEW THE REGISTRATION, CERTIFICATION, OR LICENSE IF THE REGULATOR DETERMINES THAT THE APPLICANT HAS NOT BEEN REHABILITATED AND IS UNABLE TO PERFORM THE DUTIES AND RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION WITHOUT CREATING AN UNREASONABLE RISK TO PUBLIC SAFETY.

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

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

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

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

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

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

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

(5) (a) IN ORDER TO DENY AN APPLICATION FOR REGISTRATION, CERTIFICATION, OR LICENSURE PURSUANT TO THIS SECTION, A REGULATOR BEARS THE BURDEN OF

PROOF TO SHOW BY CLEAR AND CONVINCING EVIDENCE THAT THE DENIAL DIRECTLY CONNECTS INFORMATION IN AN APPLICANT'S CRIMINAL RECORD TO POTENTIAL PERFORMANCE IN AND THE POTENTIAL CREATION OF AN UNREASONABLE RISK TO PUBLIC SAFETY THROUGH THE PARTICULAR PROFESSION OR OCCUPATION FOR WHICH THE APPLICANT IS APPLYING FOR REGISTRATION, CERTIFICATION, OR LICENSURE.

(b) IF AN INDIVIDUAL HAS FILED A PETITION FOR A DETERMINATION PURSUANT TO SUBSECTION (4) OF THIS SECTION, HAS RECEIVED A NOTICE OF AN AGENCY ADJUDICATORY HEARING AND FILED AND ANSWER TO THE NOTICE PURSUANT TO SECTION 24-4-105, AND FAILS TO APPEAR AT THE SCHEDULED TIME AND PLACE OF THE HEARING, THE ADMINISTRATIVE LAW JUDGE SHALL ENTER A DEFAULT JUDGMENT IN FAVOR OF THE REGULATOR.

(6) THIS SECTION DOES NOT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Before a ~~state or~~ local agency makes a final determination that a criminal

conviction disqualifies an applicant from receiving a license, certification, permit, or registration, the agency shall provide the applicant with written notice that describes:

SECTION 4. Appropriation. (1) For the 2024-25 state fiscal year, \$133,216 is appropriated to the department of regulatory agencies. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$80,203 for use by the division of professions and occupations for personal services, which amount is based on an assumption that the division will require an additional 1.2 FTE;

(b) \$8,206 for use by the division of professions and occupations for operating expenses; and

(c) \$44,807 for the purchase of legal services.

(2) For the 2024-25 state fiscal year, \$44,807 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.2 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

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

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

Approved: June 4, 2024