

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs & Labor.

HB24-1004 be amended as follows:

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
28 RECORD DURING THE APPLICATION PROCESS FOR REGISTRATION,
29 CERTIFICATION, OR LICENSURE, A REGULATOR MAY ONLY DENY OR REFUSE
30 TO RENEW THE REGISTRATION, CERTIFICATION, OR LICENSE IF THE
31 REGULATOR DETERMINES THAT THE APPLICANT HAS NOT BEEN
32 REHABILITATED AND IS UNABLE TO PERFORM THE DUTIES AND
33 RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION.

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

37 (4) (a) AN INDIVIDUAL WHOSE CONVICTION MAY AFFECT THE
38 INDIVIDUAL'S APPLICATION FOR REGISTRATION, CERTIFICATION, OR
39 LICENSURE MAY PETITION AT ANY TIME, INCLUDING WHILE INCARCERATED
40 OR BEFORE OBTAINING ANY REQUIRED PERSONAL QUALIFICATIONS, FOR A

1 DECISION FROM A REGULATOR AS TO WHETHER A REGULATOR MAY
2 CONSIDER THE INDIVIDUAL'S CRIMINAL RECORD WHEN REVIEWING THE
3 INDIVIDUAL'S APPLICATION FOR A REGISTRATION, CERTIFICATION, OR
4 LICENSE.

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

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

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

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

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

26 (5) IN ORDER TO DENY AN APPLICATION FOR REGISTRATION,
27 CERTIFICATION, OR LICENSURE PURSUANT TO THIS SECTION, A REGULATOR
28 BEARS THE BURDEN OF PROOF TO SHOW BY CLEAR AND CONVINCING
29 EVIDENCE THAT THE DENIAL DIRECTLY CONNECTS INFORMATION IN AN
30 APPLICANT'S CRIMINAL RECORD TO POTENTIAL PERFORMANCE IN THE
31 PARTICULAR OCCUPATION OR PROFESSION FOR WHICH THE APPLICANT IS
32 APPLYING FOR REGISTRATION, CERTIFICATION, OR LICENSURE.

33 (6) THIS SECTION DOES NOT:

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

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

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

44 (d) NEGATE THE LIST OF DETERMINING FACTORS THAT SHALL NOT
45 BE CONSIDERED REGARDING AN APPLICANT'S CRIMINAL RECORD IN

1 SECTION 24-5-101 (2)(b); OR

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

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

7 **12-20-202. Licenses, certifications, and registrations - renewal**
8 **- reinstatement - fees - occupational credential portability program**
9 **- temporary authority for military spouses - exceptions for military**
10 **personnel - rules - consideration of criminal convictions or driver's**
11 **history - executive director authority - definitions.** (5) **Criminal**
12 **convictions.** Unless there is a specific statutory disqualification that
13 prohibits an applicant from obtaining licensure, certification, or
14 registration based on a criminal conviction, if a regulator determines that
15 an applicant for licensure, certification, or registration has a criminal
16 record, the regulator is governed by ~~section~~ SECTIONS 12-20-206 AND
17 24-5-101 for purposes of granting or denying, or placing any conditions
18 on, licensure, certification, or registration.

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

22 **24-5-101. Effect of criminal conviction on employment rights**
23 **- fee - determination.** (1)(a) Except as otherwise provided in subsection
24 (1)(b) of this section, the fact that a person has been convicted of a felony
25 or other offense ~~involving moral turpitude~~ shall not, in and of itself,
26 prevent the person from applying for and obtaining public employment
27 or from applying for and receiving a license, certification, permit, or
28 registration required by the laws of this state to follow any business,
29 occupation, or profession.

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

44 (II) A STATE AGENCY MAKING A FINDING PURSUANT TO
45 SUBSECTION (2)(a)(I) OF THIS SECTION MAY ONLY CONSIDER CONVICTIONS

1 PURSUANT TO SECTION 12-20-206.

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

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

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

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

25 (7) Before a ~~state or~~ local agency makes a final determination that
26 a criminal conviction disqualifies an applicant from receiving a license,
27 certification, permit, or registration, the agency shall provide the applicant
28 with written notice that describes:

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

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

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