

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3634

By: McDugle

AS INTRODUCED

An Act relating to professions and occupations;
amending 59 O.S. 2021, Section 4000.1, as amended by
Section 1, Chapter 279, O.S.L. 2022 (59 O.S. Supp.
2023, Section 4000.1), which relates to requirements
for reinstating occupational licenses; adding certain
boards of examiners to exemptions; providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 4000.1, as
amended by Section 1, Chapter 279, O.S.L. 2022 (59 O.S. Supp. 2023,
Section 4000.1), is amended to read as follows:

Section 4000.1 A. As used in this section:

1. "Substantially relate" means the nature of the criminal
conduct for which the person was convicted has a direct bearing on
the fitness or ability to perform one or more of the duties or
responsibilities necessarily related to the occupation; and

2. "Pose a reasonable threat" means the nature of the criminal
conduct for which the person was convicted involved an act or threat

1 of harm against another and has a bearing on the fitness or ability
2 to serve the public or work with others in the occupation.

3 B. Notwithstanding any other provision of law, a conviction,
4 plea of guilty or nolo contendere, or pending criminal charge of a
5 crime may be grounds for the denial of an applicant for a state
6 license or state certification to practice an occupation only if the
7 underlying offense substantially relates to the duties and
8 responsibilities of the occupation and poses a reasonable threat to
9 public safety, health, or welfare. When making a determination
10 pursuant to this subsection, a licensing or certification authority
11 shall consider:

- 12 1. The nature and seriousness of the offense;
- 13 2. The amount of time that has passed since the offense;
- 14 3. The age of the person at the time the offense was committed;
- 15 4. Evidence relevant to the circumstances of the offense
16 including any aggravating or mitigating circumstances of social
17 conditions surrounding the commission of the offense;
- 18 5. The nature of the specific duties and responsibilities for
19 which the license or certification is required; and
- 20 6. Any evidence of rehabilitation submitted by the applicant
21 including, but not limited to, evidence related to the person's
22 compliance with any conditions of community supervision, parole, or
23 mandatory supervision, the conduct and work activity of the person,
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1 programming, or treatment undertaken by the person, and testimonials
2 or personal reference statements.

3 C. Notwithstanding any other provision of law, a licensing or
4 certification authority shall not deny a state license or state
5 certification to practice an occupation due to:

6 1. An arrest that was not followed by a valid plea of guilty or
7 nolo contendere unless charges are currently pending;

8 2. A conviction that has been sealed, or expunged;

9 3. A conviction or plea of guilty or nolo contendere for which
10 more than five (5) years have elapsed since the date of conviction,
11 plea, or release from incarceration, whichever is later, so long as
12 the person has not been convicted of a new crime. This paragraph
13 shall not apply to any conviction or plea of guilty or nolo
14 contendere for:

15 a. an offense enumerated in Section 571 of Title 57 of
16 the Oklahoma Statutes,

17 b. a felony involving domestic assault, domestic assault
18 and battery, or domestic abuse as defined in Section
19 644 of Title 21 of the Oklahoma Statutes,

20 c. an offense that would require registration as a sex
21 offender pursuant to the Sex Offenders Registration
22 Act, or

23 d. any equivalent law enumerated in this paragraph from
24 another jurisdiction; or
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1 4. A finding that an applicant lacks good character or fails to
2 meet any other similarly vague standard where a criminal conviction
3 is the basis for the finding.

4 D. Before a state licensing or state certification authority
5 makes a final determination that a criminal conviction, plea of
6 guilty or nolo contendere, or pending criminal charge may disqualify
7 an applicant for licensure, that authority shall provide written
8 notice of:

9 1. The specific offense that is the basis for the intended
10 denial;

11 2. The reasons the offense was determined to substantially
12 relate to the duties and responsibilities of the occupation and
13 posed a reasonable threat to public safety, health, or welfare,
14 including findings for each of the factors in subsection B of this
15 section that the licensing or certification authority deemed
16 relevant to the determination; and

17 3. The right to submit additional evidence relevant to each of
18 the factors listed in subsection B of this section within thirty
19 (30) days, which the licensing or certification authority shall
20 consider before issuing a final determination.

21 E. A final determination that a criminal conviction, plea of
22 guilty or nolo contendere, or pending criminal charge may prevent a
23 person from receiving a license shall be in writing and include
24 notice of the right to appeal the determination pursuant to the
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1 Administrative Procedures Act, or a more specific statutory
2 authority, and notice of the earliest date the applicant may reapply
3 for a license.

4 F. A person with a criminal history record may request a
5 determination of whether his or her criminal history record may
6 disqualify him or her from obtaining the desired license or
7 certification in the occupation from a state licensing or state
8 certification authority at any time, including before obtaining any
9 required education or training for such occupation. The request
10 shall be in writing and shall include either a copy of the person's
11 criminal history record with explanation of each conviction
12 mentioned in the criminal history record or a statement describing
13 each criminal conviction including the date of each conviction, the
14 court of jurisdiction and the sentence imposed. The person may
15 include a statement with his or her request describing additional
16 information for consideration by the licensing or certification
17 authority including, but not limited to, information relevant to any
18 of the factors for consideration described in subsection B of this
19 section.

20 G. Upon receipt of a written request for consideration of a
21 criminal history record for an occupation as provided in subsection
22 F of this section, the licensing or certification authority shall
23 evaluate the request and make a determination based upon the
24 information provided in such request whether the stated conviction
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1 is a disqualifying offense for the occupation. A notice of the
2 determination shall be issued to the petitioner within sixty (60)
3 days from the date such request was received by the licensing or
4 certification authority, except however, a licensing or
5 certification authority regulating fifty thousand or more members in
6 its occupation shall be allowed ninety (90) days to make its initial
7 determination and issue notice to the requestor.

8 H. A determination made pursuant to subsection F of this
9 subsection that a person may not be disqualified for licensure or
10 certification due to criminal history shall be binding upon a
11 licensing or certification authority unless, at the time a full
12 application for a license is submitted, the applicant has
13 subsequently pled guilty or nolo contendere to a crime, has pending
14 criminal charges, or has previously undisclosed criminal
15 convictions.

16 I. The notice of a determination made pursuant to subsection F
17 of this section shall be in writing and mailed to the requestor at
18 the address provided in his or her request, and shall contain the
19 following statements:

20 1. Whether the person is eligible for licensure or
21 certification in the occupation at the current time based upon the
22 information submitted by the requestor;

23 2. Whether there is a disqualifying offense that would
24 disqualify the person from engaging in the occupation at the current
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1 time and a statement identifying such offense in the criminal
2 history record or information submitted for consideration;

3 3. Any actions the person may take to remedy a
4 disqualification, if any;

5 4. The earliest date the person may submit another request for
6 consideration, if any; and

7 5. A statement that the determination may be rescinded if, at
8 the time a full application for a license is submitted, the
9 applicant has subsequently pled guilty or nolo contendere to a
10 crime, has pending criminal charges, or has previously undisclosed
11 criminal convictions.

12 J. A state entity charged with oversight of an occupational
13 license or certification may promulgate forms for requests for
14 determinations for the occupation as authorized in subsection F of
15 this section. Each state licensing or certification authority may
16 charge a fee not to exceed Ninety-five Dollars (\$95.00) for each
17 initial determination of eligibility it makes for the occupation
18 based upon the information provided by the requestor.

19 K. Each state licensing or state certification authority shall
20 include in its application for a license or certification and
21 publish on its public website the following information:

22 1. Whether the criminal offenses of applicants may be used as a
23 basis for denial;

1 2. If criminal history may be used as a basis for denial as
2 listed in subsection B of this section, which offenses the licensing
3 or certification authority shall consider; and

4 3. Notice of the right to request a determination pursuant to
5 subsection F of this section.

6 L. Each state licensing or state certification authority
7 authorized to consider the criminal conviction of an applicant shall
8 annually provide to the Legislature, and publish on its public
9 website, the following:

10 1. The number of license applications received;

11 2. The number of applications that resulted in a license being
12 granted;

13 3. The number of applications that resulted in a license being
14 denied;

15 4. The number of applications that were denied due to criminal
16 history;

17 5. A list of criminal offenses reported by individuals who were
18 granted a license;

19 6. A list of criminal offenses reported by individuals who were
20 denied a license due to criminal history along with the time elapsed
21 since the commission of the offense; and

22 7. The number of petitions received by the licensing or
23 certification authority pursuant to subsection F of this section.
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1 M. The provisions of this section shall not be construed to
2 apply to the Council on Law Enforcement Education and Training, the
3 Bail Bonds Division of the Oklahoma Insurance Department, the State
4 Board of Education, the boards of examiners which are established in
5 Title 20 of the Oklahoma Statutes, or individuals applying to these
6 authorities for licensure or certification.

7 SECTION 2. This act shall become effective November 1, 2024.

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