

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1303

By: Representative Cozart

For An Act To Be Entitled

AN ACT TO CREATE THE RED TAPE REDUCTION OCCUPATIONAL LICENSING RELEVANCE CRIMINAL BACKGROUND CHECK ACT; TO ESTABLISH THAT OCCUPATIONAL LICENSING ENTITIES MAY CONSIDER OCCUPATIONAL RELEVANCE WITH REGARD TO CRIMINAL BACKGROUND CHECKS; TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR APPLICANTS TO OCCUPATIONAL PROGRAMS, TRAINING, AND SCHOOLS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE RED TAPE REDUCTION OCCUPATIONAL LICENSING RELEVANCE CRIMINAL BACKGROUND CHECK ACT; AND TO CONSIDER OCCUPATIONAL RELEVANCE WITH REGARD TO CRIMINAL BACKGROUND CHECKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Red Tape Reduction Occupational Licensing Relevance Criminal Background Check Act".

SECTION 2. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

(2) Arkansas became one (1) of eleven (11) states chosen to



participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and

(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

(E) Establish a systematic process for review of:

(i) New occupational licensure and occupational licensing entities; and

(ii) Existing occupational licensure and occupational licensing entities.

(b) It is the intent of the General Assembly to establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues.

SECTION 3. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended to add additional sections to read as follows:

17-1-108. Occupational relevance regarding criminal background checks.

(a) As used in this section:

(1) "Occupational licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government

having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession; and

(2) "Occupational licensure" means a license, certificate, registration, permit, or other form of authorization required by law or a rule that is required for an individual to engage in a particular occupation or profession.

(b)(1) An occupational licensing entity may waive disqualification or revocation of an occupational licensure for an offense listed within the licensing requirements of the Arkansas Code when a person has pleaded guilty or nolo contendere to or has been found guilty of any listed offense upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to revocation.

(2) A basis upon which a waiver may be granted includes without limitation:

(A) The age at which the offense was committed;

(B) The circumstances surrounding the offense;

(C) The length of time since the offense was committed;

(D) Subsequent work history since the offense was committed;

(E) Employment references since the offense was committed;

(F) Character references since the offense was committed;

(G) Relevance of the offense to the occupational licensure; and

(H) Other evidence demonstrating that licensure of the applicant

does not pose a threat to the health or safety of the public.

17-1-109. Pre-licensure criminal background checks.

(a) An occupational education program, training, or school shall establish criteria by which the passage of the criminal background check is determined based upon the occupational criteria for licensure.

(b) Upon application to an occupational education program, training, or school, the applicant shall undergo a state and federal criminal background check.

(c) The applicant shall be responsible for payment for a state and federal criminal background check.