

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: S2/5/19 S2/13/19  
**A Bill**

SENATE BILL 175

By: Senators J. Cooper, B. Ballinger, B. Johnson, G. Stubblefield, D. Wallace  
By: Representatives Cozart, L. Fite

### For An Act To Be Entitled

AN ACT TO REQUIRE DISCRETION IN REVIEWING CERTAIN FACTORS BEFORE DISQUALIFYING AN APPLICANT FOR OCCUPATIONAL LICENSURE; TO AUTHORIZE CRIMINAL BACKGROUND CHECKS BEFORE APPLYING FOR OCCUPATIONAL LICENSURE; AND FOR OTHER PURPOSES.

### Subtitle

TO REQUIRE DISCRETION IN REVIEWING CERTAIN FACTORS BEFORE DISQUALIFYING AN APPLICANT FOR OCCUPATIONAL LICENSURE; AND TO AUTHORIZE CRIMINAL BACKGROUND CHECKS BEFORE APPLYING FOR OCCUPATIONAL LICENSURE.

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

SECTION 1. 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 2. 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 and § 17-1-109:

(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 with the authority to 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 shall consider the following:

(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.

(2) The grant of a waiver may be considered upon the request of:  
(A) An affected applicant for occupational licensure; or  
(B) A person holding an occupational license subject to revocation.

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

(a) An occupational licensing entity shall establish criteria that indicate the passage of a criminal background check based upon the criteria for occupational licensure.

(b) Before applying for occupational licensure, an individual may request an informal appearance before the occupational licensing entity to determine whether he or she would pass the criminal background check and if he or she could obtain a waiver under § 17-1-108.

(c)(1) Upon a request for an informal appearance under subsection (b) of this section, an occupational licensing entity may require that the applicant undergo a state and federal criminal background check as required by the occupational licensing entity for all applicants for occupational licensure.

(2) The requestor under subsection (b) of this section shall be responsible for payment for a state and federal criminal background check.

(d)(1) An occupation licensing entity shall promulgate rules necessary to implement this section.

(2)(A) When adopting the initial rules to implement this section, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or

(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) An occupational licensing entity shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

/s/J. Cooper