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HOUSE BILL 22-1098

BY REPRESENTATIVE(S) Bird and Bacon, Amabile, Benavidez, Boesenecker, Esgar, Exum, Gonzales-Gutierrez, Gray, Herod, Hooton, Jodeh, Kipp, Lindsay, Lontine, McCluskie, Roberts, Sirota, Snyder, Titone, Weissman, Woodrow;
also SENATOR(S) Liston and Coleman, Bridges, Buckner, Donovan, Gonzales, Hansen, Jaquez Lewis, Lee, Moreno, Pettersen, Rodriguez, Story, Winter, Fenberg.

CONCERNING THE ELIMINATION OF BARRIERS TO OBTAINING AUTHORITY TO PRACTICE AN OCCUPATION BASED ON AN INDIVIDUAL'S CRIMINAL HISTORY RECORD, 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** 12-20-205 as follows:

12-20-205. Director - audit of practice acts - barriers to practice - criminal history records - report - denial of license, certification, registration. (1) ON OR BEFORE JUNE 1, 2023, THE DIRECTOR SHALL COMPLETE AN AUDIT OF THE PRACTICE ACTS IN THIS TITLE 12 AND THE

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.

REGULATION OF VARIOUS PROFESSIONS AND OCCUPATIONS BY REGULATORS PURSUANT TO THIS TITLE 12 TO DETERMINE WHETHER A BARRIER TO PROFESSIONAL LICENSING, CERTIFICATION, OR REGISTRATION EXISTS DUE TO AN APPLICANT'S CRIMINAL HISTORY RECORD. ON OR BEFORE JULY 1, 2023, THE DIRECTOR SHALL REPORT THE FINDINGS TO THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE AND THE HOUSE OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE REPORT SHALL INCLUDE:

(a) THE BARRIERS THAT EXIST TO LICENSING, CERTIFICATION, OR REGISTRATION DUE TO A CRIMINAL HISTORY RECORD;

(b) LEGISLATIVE RECOMMENDATIONS REGARDING WHETHER ANY BARRIERS SHOULD BE REMOVED OR CHANGED PURSUANT TO A BILL OF THE GENERAL ASSEMBLY;

(c) RECOMMENDATIONS FOR SOLUTIONS TO ANY BARRIERS, INCLUDING A PROCESS TO ADVISE INDIVIDUALS AS TO WHETHER AN INDIVIDUAL WOULD QUALIFY FOR LICENSURE, CERTIFICATION, OR REGISTRATION BASED ON THE INDIVIDUAL'S CRIMINAL HISTORY RECORD IF THE INDIVIDUAL MEETS ALL OTHER REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION AT THE TIME OF THE INDIVIDUAL'S APPLICATION; AND

(d) THE NUMBER OF LICENSES, CERTIFICATIONS, OR REGISTRATIONS THAT WERE DENIED IN THE PRIOR CALENDAR YEAR DUE TO A CRIMINAL HISTORY RECORD AND THE SPECIFIC REASONS FOR EACH DENIAL.

(2) (a) A REGULATOR MAY ONLY DENY A LICENSE, CERTIFICATION, OR REGISTRATION BASED ON AN APPLICANT'S CRIMINAL HISTORY RECORD CONSISTENT WITH SECTION 24-4-105 (4).

(b) IF THE REGULATOR DENIES A LICENSE, CERTIFICATION, OR REGISTRATION BASED ON THE APPLICANT'S CRIMINAL HISTORY RECORD, THE REGULATOR SHALL DOCUMENT THE GROUNDS FOR DENIAL AND SUBMIT THE GROUNDS IN WRITING TO THE APPLICANT.

(c) A REGULATOR MAY GRANT, CONSISTENT WITH SECTION 24-34-107 (5), A CONDITIONAL LICENSE, CERTIFICATION, OR REGISTRATION TO AN APPLICANT WITH A CRIMINAL HISTORY RECORD.

(3) THE DIRECTOR SHALL COMPILE DE-IDENTIFIED AGGREGATE INFORMATION REGARDING THE REASONS WHY A LICENSE, CERTIFICATION, OR REGISTRATION WAS DENIED, IF THE REASON WAS DUE TO THE APPLICANT'S CRIMINAL HISTORY RECORD, AND MAKE THIS INFORMATION AVAILABLE TO THE PUBLIC ON THE DIVISION'S WEBSITE.

SECTION 2. In Colorado Revised Statutes, 24-5-101, **add** (7) and (8) as follows:

24-5-101. Effect of criminal conviction on employment rights - fee - determination. (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:

(a) THE SPECIFIC CONVICTION THAT IS THE BASIS FOR THE DISQUALIFICATION;

(b) THE REASONS THE CONVICTION WAS DETERMINED TO BE DISQUALIFYING, INCLUDING FINDINGS FOR EACH OF THE FACTORS IN SUBSECTION (4) OF THIS SECTION THAT THE AGENCY DEEMED RELEVANT TO THE DETERMINATION; AND

(c) THE RIGHT TO SUBMIT ADDITIONAL EVIDENCE RELEVANT TO EACH OF THE FACTORS LISTED IN SUBSECTION (4) OF THIS SECTION, CONSISTENT WITH SECTION 24-4-104.

(8) A STATE OR LOCAL AGENCY THAT MAKES A FINAL DETERMINATION THAT A CRIMINAL CONVICTION WILL PREVENT AN APPLICANT FROM RECEIVING A LICENSE, CERTIFICATION, PERMIT, OR REGISTRATION SHALL ISSUE THE DETERMINATION IN WRITING AND SHALL INCLUDE NOTICE OF THE RIGHT TO APPEAL THE DETERMINATION AND NOTICE OF THE EARLIEST DATE THE APPLICANT MAY REAPPLY FOR THE CREDENTIAL IN ACCORDANCE WITH SECTION 24-4-106.

SECTION 3. In Colorado Revised Statutes, 24-34-104, **amend** (6)(b)(IX) as follows:

24-34-104. General assembly review of regulatory agencies and

functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (6) (b) In the hearings, the determination as to whether an agency has demonstrated a public need for the continued existence of the agency or function and for the degree of regulation it practices is based on the following factors, among others:

(IX) Whether the agency through its licensing, or certification, OR REGISTRATION process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses, or certifications, OR REGISTRATIONS that the agency denied based on the applicant's criminal history, the number of conditional licenses, or certifications, OR REGISTRATIONS issued based upon the applicant's criminal history, and the number of licenses, or certifications, OR REGISTRATIONS revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.

SECTION 4. Appropriation. For the 2022-23 state fiscal year, \$11,036 is appropriated to the department of regulatory agencies for use by the division of professions and occupations. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S., and is based on an assumption that the division will require an additional 0.2 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 5. Act subject to petition - effective date. 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO