

HOUSE No. 348

The Commonwealth of Massachusetts

PRESENTED BY:

David Henry Argosky LeBoeuf and Steven Ultrino

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to increasing opportunities for employment in professional licensure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/19/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/19/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/25/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>1/25/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/9/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/9/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>2/10/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/23/2023</i>
<i>Estela A. Reyes</i>	<i>4th Essex</i>	<i>3/2/2023</i>

HOUSE No. 348

By Representatives LeBoeuf of Worcester and Ultrino of Malden, a petition (accompanied by bill, House, No. 348) of David Henry Argosky LeBoeuf, Steven Ultrino and others for legislation to further regulate professional and occupational licensing. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to increasing opportunities for employment in professional licensure.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 172 of chapter 6 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting, after the word “entity”, in line 27, the following
3 words:- , subject to section 172N.

4 SECTION 2. Said chapter 6 is hereby amended by striking out section 172N, as so
5 appearing, and inserting in place thereof the following 2 sections:-

6 Section 172N. (a) For the purposes of this section, “licensing authority” shall include any
7 agency, examining board, credentialing board or other office or commission, including boards
8 supervised by the commissioner of professional licensure, with the authority to impose
9 occupational fees or licensing requirements on a profession.

10 (b) Notwithstanding any other provision of law, a licensing authority shall not
11 automatically bar an individual from a professional or occupational license because of a criminal

12 record. A licensing authority shall provide individualized consideration of an individual's
13 circumstances as described in subsections (d) and (e) to deny, diminish, suspend, revoke,
14 withhold or otherwise limit a professional or occupational license.

15 (c) Notwithstanding any general or special law to the contrary, a licensing authority shall
16 not consider, nor require an individual to disclose:

17 (1) a deferred adjudication, including but not limited to a continuance without a finding,
18 participation in a diversion program or an arrest not followed by a conviction;

19 (2) a conviction for which no sentence of incarceration may be imposed;

20 (3) a conviction that has been sealed, annulled, dismissed, vacated, set aside, expunged or
21 pardoned;

22 (4) a juvenile adjudication;

23 (5) a non-violent misdemeanor;

24 (6) a conviction that occurred more than 3 years prior to the date of the licensing
25 authority's consideration or where the individual's incarceration ended more than 3 years before
26 the date of the licensing authority's consideration, except for a conviction of:

27 (i) a crime punishable by imprisonment for a term exceeding 2 and a half years, or any
28 act of juvenile delinquency involving the use or possession of a deadly weapon that would be
29 punishable by imprisonment for such term if committed by an adult, that (A) has as an element
30 involving the use, attempted use or threatened use of physical force or a deadly weapon against
31 the person of another; (B) is burglary, extortion, arson or kidnapping; (C) involves the use of

32 explosives; or (D) resulted in death, bodily injury, or serious bodily injury with malice
33 aforethought;

34 (ii) a felony related to a sex offense, a sex offense involving a child or a sexually violent
35 offense as defined in section 178C; or

36 (iii) a felony related to criminal fraud pursuant to section 1 of chapter 267 or
37 embezzlement pursuant to chapter 266.

38 (d)(1) A licensing authority may deny, diminish, suspend, revoke, withhold or otherwise
39 limit a professional or occupational license only if the licensing authority determines, by clear
40 and convincing evidence, that:

41 (i) First, an individual's non-excluded criminal record directly relates to the duties and
42 responsibilities of the profession or occupation.

43 (ii) Second, if an individual's non-excluded criminal record is directly related to the
44 duties and responsibilities of the profession or occupation, the licensing authority must then
45 determine if the interest of the licensing authority in protecting the public, an individual or
46 property from harm outweighs the individual's right to hold the professional or occupational
47 license.

48 (iii) Third, if the licensing authority determines that the interest in protecting the public,
49 an individual or property from harm outweighs the individual's right to hold the professional or
50 occupational license, then the licensing authority shall determine if the applicant has failed to be
51 rehabilitated.

52 (2) The licensing authority shall bear the burden of proof to establish evidence of clauses
53 (i) to (iii), inclusive.

54 (e) If the applicant's criminal record is directly related to the performance, duties,
55 responsibilities, practices or functions of the profession, the licensing authority shall consider the
56 following factors, in a light most favorable to the applicant, to demonstrate evidence of
57 rehabilitation:

58 (1) the age of the individual at the time of the offense;

59 (2) the length of time since the offense;

60 (3) the completion of a criminal sentence, not including financial obligations;

61 (4) a certificate of rehabilitation, restoration of rights or good conduct;

62 (5) completion of, or active participation in, rehabilitative drug or alcohol treatment or
63 similar programs;

64 (6) testimonials and recommendations, including, but not limited to, progress reports
65 from the individual's probation or parole officer;

66 (7) other evidence of rehabilitation;

67 (8) education and training;

68 (9) employment history;

69 (10) the individual's responsibilities, including civic and community engagement or
70 family contributions;

71 (11) whether the individual will be bonded in the occupation; and

72 (12) other information that the individual submitted to the licensing authority including
73 mitigating circumstances.

74 (f) The licensing authority shall make its decision using the criteria and process described
75 in subsections (b) to (e), inclusive. The licensing authority shall issue and send a decision to the
76 applicant on the petition not later than 60 days after the licensing authority receives the petition
77 or, if a hearing is held, not later than 90 days after the licensing authority receives the petition.
78 The decision shall be made in writing and include a copy of any criminal record report that the
79 licensing authority reviewed. If the licensing

80 authority determines that an occupational or professional license should not be granted
81 because of the criminal conviction of an applicant, the decision shall set forth the reasons for the
82 determination which shall address each of the factors in subsection (e) that the licensing
83 authority deemed relevant to the determination.

84 (g)(1) An individual with a criminal record may petition a licensing authority at any time,
85 including before obtaining any required personal qualifications or applying for a license, for a
86 decision as to whether the individual's criminal record is directly related to the profession and
87 that criminal record would disqualify the individual from obtaining a professional or
88 occupational license. The licensing authority may charge a fee to the petitioner to recoup costs
89 related to the petition, not to exceed \$100 for each petition. If the petitioner's income is at or
90 below 250 per cent of the federal poverty level used to determine indigency by the trial court of
91 the commonwealth, the fee shall be waived.

92 (2) The petitioner shall include in the petition an authorization for the licensing authority
93 to obtain the petitioner's criminal record.

94 (3) The licensing authority will make its decision using the criteria and process in
95 subsections (b) to (e), inclusive.

96 (4) The licensing authority shall issue and send a decision on the petition to the petitioner
97 not later than 60 days after the licensing authority receives the petition or, if a hearing is held, not
98 later than 90 days after the licensing authority receives the petition. The decision shall be made
99 in writing, include a copy of any criminal record report that the licensing authority reviewed and,
100 if the licensing authority determines that an occupational license should not be granted because
101 of the petitioner's criminal record, a description that details with specificity how the petitioner's
102 criminal record is directly and specifically related to the performance, duties, responsibilities,
103 practices or functions of the profession.

104 (5) A decision that the licensing authority should grant the application under certain
105 conditions is binding on the licensing authority in any later ruling on the petitioner's professional
106 or occupational license unless there is a change in the petitioner's criminal record that is directly
107 related to the duties or responsibilities of the licensed occupation.

108 (6) If the licensing authority decides that the professional or occupational license should
109 not be granted, the licensing authority may provide an alternative advisory opinion, in which the
110 licensing authority may advise the petitioner of actions the petitioner may take to remedy the
111 disqualification.

112 (7) If advised by the licensing authority of remedial actions, the petitioner may submit a
113 revised petition reflecting completion of the remedial actions before a deadline set by the
114 licensing authority in the alternative advisory decision.

115 (8) The petitioner may appeal the licensing authority's decision as provided in section
116 176.

117 (9) The petitioner may submit a new petition to the licensing authority not sooner than 1
118 year following a final judgment on the initial petition or upon obtaining the required personal
119 qualifications.

120 (h)(1) An ambiguity in a professional or occupational regulation relating to a licensing
121 authority's use of an individual's criminal record shall be resolved in the favor of the individual.

122 (2) Notwithstanding any general or special law to the contrary, a licensing authority shall
123 not use vague terms in its consideration and decision making, including:

124 (i) good moral character;

125 (ii) moral turpitude; or

126 (iii) character and fitness.

127 (i) Nothing in this section shall be construed to change a licensing authority's ability to
128 enforce other conditions of professional and occupational licenses, including the personal
129 qualifications required to obtain recognition or compliance with other regulations.

130 (j)(1) Each licensing authority shall annually report to the division of professional
131 licensure, or the department under which the licensing authority sits:

132 (i) the number of times that each licensing authority acted to deny, diminish, suspend,
133 revoke, withhold or otherwise limit state recognition for a license because of an individual's
134 criminal record;

135 (ii) the criminal convictions that were the subject of each licensing authority action
136 described in clause (i);

137 (iii) the number of applicants petitioning each licensing authority pursuant to subsection
138 (e);

139 (iv) the criminal convictions that were the subject of each approval or denial of a petition
140 pursuant to subsection (e); and

141 (v) other relevant data as determined by the division of professional licensure or the
142 department under which the licensing authority sits.

143 (2) The division of professional licensure or department governing the licensing body
144 shall annually compile and publish a report on a searchable public website summarizing data
145 reported in paragraph (1).

146 Section 172N ½. There shall be a commission on background record requirements for
147 professional licensure consisting of 11 members: the commissioner of professional licensure or a
148 designee, who shall serve as chair, the house and senate chairs of the joint committee on
149 consumer protection and professional licensure, the executive director of the Massachusetts
150 office of victim assistance or a designee, and 7 members to be appointed by the governor, 1 of
151 whom shall be a representative of the Massachusetts AFL-CIO Council, Inc., 1 of whom shall be
152 a representative of the Massachusetts Building Trades Council, 1 of whom shall be a

153 representative of the NAACP Boston Branch, 1 of whom shall be a representative of a registered
154 Massachusetts affiliate of the National Urban League, Inc., 1 of whom shall be a representative
155 of the YMCA's of Massachusetts, Inc., and 1 of whom shall be a representative of the Greater
156 Boston Legal Services, Inc..

157 The commission shall advise the division of professional licensure and licensing
158 authorities, as defined in section 172N, to provide recommendations for background record
159 requirements for each professional and occupational license granted within the commonwealth.
160 Background record requirements developed by the commission shall not be designed to eliminate
161 certain licenses, nor to develop or recommend that the division of professional licensure create
162 new licenses or additional requirements for licenses.

163 SECTION 4. Section 2 of chapter 112 of the General Laws, as appearing in the 2018
164 Official Edition, is hereby amended by striking out, in line 5, the words "of good moral
165 character" and inserting in place thereof the following words:- lacks a criminal record or history
166 of disqualifying convictions that is directly related to the practice and duties of a physician
167 pursuant to section 172N.

168 SECTION 5. Section 18 of said chapter 112, as so appearing, is hereby amended by
169 striking out, in lines 1 and 2, the words "shall refuse to issue a certificate to a person, or".

170 SECTION 6. Said section 18 of said chapter 112, as so appearing, is hereby further
171 amended by adding the following paragraph:- The board shall refuse to issue a certificate to a
172 person who is intemperate in the use of alcoholic liquors or narcotic drugs or has a conviction by
173 a court of competent jurisdiction of a crime which the board determines, pursuant to section
174 172N, to be of such a nature as to render such person unfit to practice as a podiatry.

175 SECTION 7. Section 23B of said chapter 112, as so appearing, is hereby amended by
176 striking out, in line 11, the words “is of good moral character” and inserting in place thereof the
177 following words:- lacks a criminal record or history of disqualifying convictions directly related
178 to the duties or practices of the occupation pursuant to section 172N.

179 SECTION 8. Section 23S of said chapter 112, as so appearing, is hereby amended by
180 striking out, in lines 11 and 12, the words “is of good moral character” and inserting in place
181 thereof the following words:- lacks a criminal record or history of disqualifying convictions
182 directly related to the duties or practices the occupation pursuant to section 172N.

183 SECTION 9. Section 45 of said chapter 112, as so appearing, is hereby amended by
184 striking out, in line 5, the words “of good moral character” and inserting in place thereof the
185 following words:- lacking a criminal record or history of disqualifying convictions directly
186 related to the duties or practices of dentistry pursuant to section 172N.

187 SECTION 10. Section 45A of said chapter 112, as so appearing, is hereby amended by
188 striking out, in line 2, the words “of good moral character” and inserting in place thereof the
189 following words:- lacking a criminal record or history of disqualifying convictions directly
190 related to the duties or practices of a dentist with a limited registration to section 172N.

191 SECTION 11. Section 45B of said chapter 112, as so appearing, is hereby amended by
192 striking out, in line 2, the words “of good moral character” and inserting in place thereof the
193 following words:- lacking a criminal record or history of disqualifying convictions directly
194 related to the duties or practices of a temporarily registered dentist pursuant to section 172N.

195 SECTION 12. Section 51 of said chapter 112, as so appearing, is hereby amended by
196 striking out, in line 1, the words “of good moral character” and inserting in place thereof the

197 following words:- lacking a criminal record or history of disqualifying convictions directly
198 related to the duties or practices of a dental hygienist pursuant to section 172N.

199 SECTION 13. Section 51½ of said chapter 112, as so appearing, is hereby amended by
200 striking out, in line 3, the words “of good moral character” and inserting in place thereof the
201 following words:- lacking a criminal record or history of disqualifying convictions directly
202 related to the duties or practices of a dental assistant pursuant to section 172N.

203 SECTION 14. Section 55 of said chapter 112, as so appearing, is hereby amended by
204 striking out, in lines 4 and 5, the words “of good moral character, and a” and inserting in place
205 thereof the following words:- lacks a criminal record or history of disqualifying convictions
206 directly related to the duties or practices of a veterinarian pursuant to section 172N and is a.

207 SECTION 15. Section 60B of said chapter 112, as so appearing, is hereby amended by
208 striking out, in line 2, the words “of good moral character” and inserting in place thereof the
209 following words:- who lacks a criminal record or history of disqualifying convictions directly
210 related to the duties or practices of an architect pursuant to section 172N.

211 SECTION 16. Section 68 of said chapter 112, as so appearing, is hereby amended by
212 striking out, in line 13 the words “of good moral character” and inserting in place thereof the
213 following words:- lacks a criminal record or history of disqualifying convictions directly related
214 to the duties or practices of an optometrist pursuant to section 172N.

215 SECTION 17. Section 73H of said chapter 112, as so appearing, is hereby amended by
216 striking out, in line 8, the words “involving moral turpitude” and inserting in place thereof the
217 following words:- related to the duties or practices of a dispensing optician pursuant to section
218 172N.

219 SECTION 18. Section 74 of said chapter 112, as so appearing, hereby amended by
220 striking out, in line 7 the words “he is of good moral character” and inserting in place thereof the
221 following words:- the applicant lacks a criminal record or history of disqualifying convictions
222 directly related to the duties or practices of a nurse pursuant to section 172N.

223 SECTION 19. Section 74A of said chapter 112, as so appearing, is hereby amended by
224 striking out, in lines 5 and 6, the words “he is of good moral character and that he” and inserting
225 in place thereof the following words:- the applicant lacks a criminal record or history of
226 disqualifying convictions directly related to the duties or practices of a practical nurse pursuant
227 to section 172N and.

228 SECTION 20. Section 76B of said chapter 112, as so appearing, is hereby amended by
229 striking out, in lines 7, 20, 32, 47 and 61, the words “good moral character” and inserting in
230 place thereof, in each instance, the following words:- lacking a criminal record or history of
231 disqualifying convictions directly related to the duties or practices of a nurse pursuant to section
232 172N.

233 SECTION 21. Section 84 of said chapter 112, as so appearing , is hereby amended by
234 striking out, in line 35, the words “involving moral turpitude” and inserting in place thereof the
235 following words:- that is related to the core functions of a funeral director pursuant to section
236 172N

237 SECTION 22. Section 87A½ of said chapter 112, as so appearing, is hereby amended by
238 striking out, in lines 43 and 44, the words “history of dishonest or felonious acts” and inserting in
239 place thereof the following words:- criminal record or history of disqualifying convictions
240 directly related to the duties or practices of a public accountant pursuant to section 172N.

241 SECTION 23. Section 87TT of said chapter 112, as so appearing, is hereby amended by
242 striking out, in line 8, the words “good moral character” and inserting in place thereof, the
243 following words:- a lack of criminal record or history of disqualifying convictions directly
244 related to the duties or practices of real estate brokers and salesmen pursuant to section 172N.

245 SECTION 24. Said section 87TT of said chapter 112, as so appearing, is hereby further
246 amended by striking out, in line 10, the words “good moral character” and inserting in place
247 thereof the following words :- lack of a criminal record or history of disqualifying convictions
248 pursuant to section 172N.

249 SECTION 25. The first paragraph of said section 87TT of said chapter 112, as so
250 appearing, is hereby amended by striking out the last sentence.

251 SECTION 26. Section 87XX of said chapter 112, as so appearing, is hereby amended by
252 inserting after the word “character”, in lines 20 and 22, in each instance, the following words:-
253 pursuant to section 172N.

254 SECTION 27. Section 93 of said chapter 112, as so appearing, is hereby amended by
255 striking out, in line 2, the words “involving moral turpitude” and inserting in place thereof the
256 following words:- pursuant to section 172N.

257 SECTION 28. Section 101 of said chapter 112, as so appearing, is hereby amended by
258 striking out, in lines 4 and 5, the words “of good moral character” and inserting in place thereof
259 the following words:-lacks a criminal record or history of disqualifying convictions directly
260 related to the duties or practices of a landscape architect pursuant to section 172N.

261 SECTION 29. Section 119 of said chapter 112, as so appearing, is hereby amended by
262 striking out clause (a) and inserting in place thereof the following clause:- (a) lacks a criminal
263 record or history of disqualifying convictions directly related to the duties or practices of a
264 psychologist pursuant to section 172N;

265 SECTION 30. Section 136 of said chapter 112, as so appearing, is hereby amended by
266 striking out, in line 12, the words “involving moral turpitude” and inserting in place thereof the
267 following words:- directly related to the duties or practices of a social worker pursuant to section
268 172N.

269 SECTION 31. Section 144 of said chapter 112, as so appearing, is hereby amended by
270 striking out clause (1) and inserting in place thereof the following clause:- (1) lacks a criminal
271 record or history of disqualifying convictions directly related to the duties or practices of a
272 speech-language pathologist or audiologist pursuant to section 172N,.

273 SECTION 32. Section 144A of said chapter 112, as so appearing, is hereby amended by
274 striking out clause (1) and inserting in place thereof the following clause:- (1) lack a criminal
275 record or history of disqualifying convictions directly related to the duties or practices of an
276 assistant to a speech-language pathologist or audiologist pursuant to section 172N,.

277 SECTION 33. Section 152 of said chapter 112, as so appearing, is hereby amended by
278 striking out clause (b) and inserting in place thereof the following clause:- (b) lack a criminal
279 record or history of disqualifying convictions directly related to the duties or practices of an
280 acupuncturist pursuant to section 172N,.

281 SECTION 34. Section 169 of said chapter 112, as so appearing, is hereby amended by
282 striking out, in line 2, the word “deny”.

283 SECTION 35. Said section 169 of said chapter 112, as so appearing, is hereby further
284 amended by inserting after the second paragraph the following paragraph:- The board, pursuant
285 to section 172N, may deny a license due to a finding of a conviction by a court of competent
286 jurisdiction of a crime related to conduct which places into question the applicant's competence
287 to provide mental health and human services, including gross misconduct in the practice of
288 mental health and human services on a particular occasion or negligence on repeated occasions.

289 SECTION 36. Subsection (f) of section 197 of said chapter 112, as so appearing, is
290 hereby amended by striking out clause (3) and inserting in place thereof the following clause:-
291 (3) lack a criminal record or history of disqualifying convictions directly related to the duties or
292 practices of hearing instrument specialists pursuant to section 172N;.

293 SECTION 37. Section 203 of said chapter 112, as so appearing, is hereby amended by
294 striking out, in lines 10 and 11, the words "of good moral character" and inserting in place
295 thereof the following words:- lacks a criminal record or history of disqualifying convictions
296 directly related to the duties or practices of a dietitian/nutritionist pursuant to section 172N.

297 SECTION 38. The first paragraph of section 205 of said chapter 112, as so appearing, is
298 hereby amended by striking out clause (d) and inserting in place thereof the following clause:-
299 (d) a criminal record or

300 history of disqualifying convictions directly related to the duties or practices of dietitians
301 and nutritionists pursuant to section 172N; or.

302 SECTION 39. Section 213 of said chapter 112, as so appearing, is hereby amended by
303 striking out, in lines 7 and 8, the words "of good moral character" and inserting in place thereof

304 the following words:- lacks a criminal record or history of disqualifying convictions directly
305 related to the duties or practices of a perfusionist pursuant to section 172N.

306 SECTION 40. Subsection (d) of section 222 of said chapter 112, as so appearing, is
307 hereby amended by striking out clause (i) and inserting in place thereof the following clause:- (i)
308 lack a criminal record or history of disqualifying convictions directly related to the duties or
309 practices of a home inspector pursuant to section 172N;.

310 SECTION 41. Subsection (a) of section 229 of said chapter 112, as so appearing, is
311 hereby amended by striking out clause (4) and inserting in place thereof the following clause:-
312 (4) he shall lack a criminal record or history of disqualifying convictions directly related to the
313 duties or practices of a massage therapist pursuant to section 172N;.

314 SECTION 42. Said section 229 of said chapter 112, as so appearing, is hereby amended
315 by striking out, in line 19, the words “or a crime involving moral turpitude”.

316 SECTION 43. Section 231 of said chapter 112, as so appearing, is hereby amended by
317 striking out clause (3) and inserting in place thereof the following clause:- (3) lacks a history of a
318 criminal record or history of disqualifying convictions directly related to the duties or practices
319 of a massage therapist pursuant to section 172N;.

320 SECTION 44. Section 253 of said chapter 112, as so appearing, is hereby amended by
321 striking out, in line 7, the words “of good moral character” and inserting in place thereof the
322 following words:- lacks a history of a criminal record or history of disqualifying convictions
323 directly related to the duties or practices of a genetic counselor pursuant to section 172N.

324 SECTION 45. Section 260 of said chapter 112, as so appearing, is hereby amended by
325 striking out, in line 8, the words “is of good moral character” and inserting in place thereof the
326 following words:- lacks a history of a criminal record or history of disqualifying convictions
327 directly related to the duties or practices of a community health worker pursuant to section 172N.

328 SECTION 46. Section 269 of said chapter 112, as so appearing, is hereby amended by
329 striking out, in lines 7 and 8, the words “and of good moral character” and inserting in place
330 thereof the following words:- , lacks a history of a criminal record or history of disqualifying
331 convictions directly related to the duties or practices of a naturopathic doctor pursuant to section
332 172N.

333 SECTION 47. Subsection 9 of section 4 of chapter 151B of the General Laws, as so
334 appearing, is hereby amended by inserting the following paragraphs after the last sentence:-

335 (a) An employer shall not deny employment to an individual because the person was
336 convicted of one or more criminal offenses, or by reason of a finding of lack of good moral
337 character or suitability, when such finding is based upon the fact that the applicant was convicted
338 of one or more criminal offenses, unless:

339 (i) the nature of criminal conduct for which the person was convicted has a direct bearing
340 on and affects such person’s fitness or ability to perform one or more of primary duties or
341 responsibilities necessarily related to the employment sought; or

342 (ii) hiring or continued employment of the person would involve an unreasonable risk to
343 property or to the safety or welfare of a specific individual or the general public.

344 (b) In making this determination, the employer shall undertake an individualized
345 assessment of the applicant and shall consider the following factors:

346 (i) the type of work to be performed and the nature of the primary duties or
347 responsibilities necessarily related to the employment sought;

348 (ii) whether the offense or offenses were recently committed, and whether the amount of
349 time that has elapsed since the occurrence of the offense or offenses significantly diminishes the
350 relevance of the offense or offenses;

351 (iii) the age of the person at the time of the occurrence of the criminal offense or offenses,
352 including whether youth or lack of maturity related to the person's age at the time of the offense
353 is a mitigating circumstance;

354 (iv) the seriousness of the offense or offenses;

355 (v) any evidence that the person performed the same type of work after the offense or
356 offenses with no known incidents of criminal conduct;

357 (vi) any evidence regarding the person's rehabilitation, including but not limited to civic
358 and community contributions, efforts at self-improvement, sobriety, education or training, and
359 good conduct; and

360 (c) An employer shall, at the time of denial of employment, provide the applicant or
361 employee with a written statement that sets forth specific reasons for the denial.