

2020 -- H 7352

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- LICENSING

Introduced By: Representatives Slater, Diaz, Edwards, Craven, and Blazejewski

Date Introduced: January 30, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-5.1-14 of the General Laws in Chapter 28-5.1 entitled "Equal
2 Opportunity and Affirmative Action" is hereby amended to read as follows:

3 **28-5.1-14. State licensing and regulatory agencies.**

4 (a) As used in this section:

5 (1) "Licensing authority" means any agency, examining board, or other office with the
6 authority to impose and evaluate licensing requirements on any profession.

7 (2) "License" shall include the whole or part of any agency permit, certificate, approval,
8 or similar form of permission required by law, but it does not include a motor vehicle operator's
9 license as defined in chapter 10 of title 31.

10 (b) State agencies shall not discriminate by considering race, color, religion, sex, sexual
11 orientation, gender, identity or expression, age, national origin, or disability in granting, denying,
12 or revoking a license or charter, nor shall any person, corporation, or business firm which is
13 licensed or chartered by the state unlawfully discriminate against or segregate any person on these
14 grounds. All businesses licensed or chartered by the state shall operate on a nondiscriminatory
15 basis, according to equal employment treatment and access to their services to all persons, except
16 unless otherwise exempted by the laws of the state. Any licensee, charter holder, or retail sales
17 permit holder who fails to comply with this policy is subject to any disciplinary action that is
18 consistent with the legal authority and rules and regulations of the appropriate licensing or
19 regulatory agency. State agencies which have the authority to grant, deny, or revoke licenses or

1 charters will cooperate with the state equal opportunity office to prevent any person, corporation,
2 or business firm from discriminating because of race, color, religion, sex, sexual orientation,
3 gender, identity or expression, age, national origin, or disability or from participating in any
4 practice which may have a disparate effect on any protected class within the population. The state
5 equal opportunity office shall monitor the equal employment opportunity activities and
6 affirmative action plans of all such organizations.

7 (c) The state agencies, licensing boards, and commissions covered by this section shall
8 include, but not be limited to, those departments enumerated in § 42-6-1 and the state agencies,
9 licensing boards and commissions under the jurisdiction of those departments.

10 (d) No person shall be disqualified to practice, pursue or engage in any occupation, trade,
11 vocation, profession or business, for which an occupational license, permit, certificate or
12 registration is required to be issued by the state or any of its agencies or any state licensing board
13 or commission, solely or in part, because of a prior conviction of a crime or crimes unless the
14 underlying crime or crimes substantially relate to the occupation to which the license applies,
15 notwithstanding any prior general laws to the contrary.

16 (e) No occupational license, permit, certificate, or registration issued by the state or any
17 of its agencies or any state licensing board or commission shall be suspended or revoked, solely
18 or in part, because of a prior conviction of a crime or crimes unless the underlying crime or
19 crimes substantially relate to the occupation which requires the license, notwithstanding any prior
20 general laws to the contrary.

21 (f) In determining whether a conviction substantially relates to the occupation for which
22 the license is sought, the licensing authority shall consider the following factors:

23 (1) The state's legitimate interest in equal access to employment for individuals who have
24 had past contact with the criminal justice system;

25 (2) The relationship of the crime or crimes to the purposes of regulating the occupation
26 for which the license is sought; and

27 (3) The relationship of the crime or crimes to the ability, capacity, and fitness required to
28 perform the duties and discharge the responsibilities of the position of employment or occupation.

29 (g) A person who has been convicted of a crime or crimes which substantially relate to
30 the occupation for which a license is sought shall not be disqualified from the occupation if the
31 person can show competent evidence of sufficient rehabilitation and present fitness to perform the
32 duties of the occupation for which the license is sought. The licensing authority shall consider the
33 time elapsed since the conviction, when determining if there has been sufficient rehabilitation, as
34 well as any evidence presented by the applicant regarding:

1 (1) Completion of a period of at least two (2) years after release from imprisonment, or at
2 least two (2) years after the sentencing date for a probation sentence not accompanied by
3 incarceration, without subsequent conviction or pending criminal charge(s);

4 (2) The nature and relevance of the crime or crimes for which the applicant has been
5 convicted;

6 (3) All circumstances relative to the crime or crimes, including mitigating circumstances
7 or social conditions surrounding the commission of the crime or crimes;

8 (4) The age of the person at the time the crime or crimes were committed;

9 (5) Claims that the criminal record information is in error or inadmissible under
10 subsection (h) of this section; and

11 (6) All other competent evidence of rehabilitation and present fitness presented,
12 including, but not limited to, letters of reference by persons who have been in contact with the
13 applicant since the applicant's release from any state or federal correctional institution.

14 (h) The following criminal records may not be used in connection with any application
15 for a license, permit, certificate, or registration:

16 (1) Juvenile adjudications;

17 (2) Records of arrest not followed by a valid conviction;

18 (3) Convictions which have been, pursuant to law, annulled or expunged;

19 (4) Misdemeanor convictions for which no jail sentence can be imposed;

20 (5) A conviction that is not related to the occupation for which a license is being sought,
21 as determined by subsection (f) of this section.

22 (i) If a licensing authority intends to deny, suspend, or revoke an occupational license,
23 permit, or certificate solely or in part because of the individual's prior conviction of a crime, the
24 licensing authority shall notify the applicant, in writing, of the following prior to their potential
25 final adverse decision:

26 (1) The specific conviction(s) that form the basis for the potential denial, suspension, or
27 revocation and the rationale for deeming the conviction substantially related to the occupation;

28 (2) A copy of the conviction history report, if any, upon which the licensing authority has
29 relied;

30 (3) A statement that the applicant may provide evidence of mitigation or rehabilitation, as
31 described in subsection (f) of this section; and

32 (4) Instructions on how to respond to a potential denial, suspension, or revocation.

33 (j) After receiving the notice of potential denial, suspension, or revocation, the individual
34 shall have thirty (30) business days to respond.

1 (k) If a licensing authority denies, suspends, or revokes an occupational license, permit,
2 or certificate solely or in part because of the applicant's substantially-related conviction, the
3 licensing authority shall issue a final written adverse decision that addresses each of the factors
4 enumerated in subsection (f) of this section and which also includes, but is not limited to, the
5 following:

6 (1) The final decision, including the substantially related conviction(s) that form the basis
7 for denial, suspension, or revocation and the rationale for occupation relatedness;

8 (2) The process for appealing the decision in accordance with chapter 35 of title 42
9 ("administrative procedures act"); and

10 (3) The earliest date the person may reapply for a reinstatement of their occupational
11 license, permit, or certificate, which shall not be longer than two (2) years from the date of the
12 final decision.

13 (l) Each state agency or licensing body shall issue a report, to be made publicly available
14 on the agency or licensing body website one year after the passage of this section, and by January
15 31 of each year thereafter, listing the following:

16 (1) The number of initial applicants for every occupational license, permit, or certificate
17 under their jurisdiction within the preceding calendar year, including the number of applicants
18 granted licenses, the number of applicants denied licenses for any reason, and, to the extent
19 available, the demographic breakdown of the applicants, including race, ethnicity, and gender,
20 and city or town of residence; and

21 (2) The number of applicants denied solely, or in part, because of a criminal conviction.

22 (m) Unless specifically exempted by reference to this section or otherwise contrary to
23 federal law, any existing or future state law or regulation for which a state license is required shall
24 be subject to the conditions and procedures established by this section

25 SECTION 2. This act shall take effect on January 1, 2021.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- LICENSING

1 This act would create new standards for determining whether a state work license
2 applicant's past criminal contacts/convictions should disqualify them from receiving a
3 government-issued license.

4 This act would take effect on January 1, 2021.

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