

1 H.443

2 Introduced by Representatives Rachelson of Burlington, Burke of Brattleboro,
3 Cina of Burlington, Donovan of Burlington, LaLonde of South
4 Burlington, Miller of Shaftsbury, O'Sullivan of Burlington,
5 Weed of Enosburgh, and Willhoit of St. Johnsbury

6 Referred to Committee on

7 Date:

8 Subject: Professions and occupations; license applications; conviction history

9 Statement of purpose of bill as introduced: This bill proposes to provide
10 statewide professional regulation standards for the licensure of applicants with
11 criminal conviction histories.

12 An act relating to statewide professional regulation standards for the
13 licensure of applicants with criminal conviction histories

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 26 V.S.A. chapter 57 is amended to read:

16 CHAPTER 57. ~~REVIEW OF REGULATORY LAWS~~ STATEWIDE

17 STANDARDS OF PROFESSIONAL REGULATION

18 Subchapter 1. Review of Regulatory Laws

19 * * *

1 Subchapter 2. Licensure of Applicants with a Criminal Conviction

2 § 3121. STANDARDS OF LICENSURE OF APPLICANTS WITH A
3 CRIMINAL CONVICTION HISTORY

4 (a) Notwithstanding any provision of law to the contrary, a regulatory
5 entity shall comply with the standards of licensure set forth in this section for
6 an applicant with a criminal conviction history, unless a regulatory law allows
7 for greater protection of such an applicant.

8 (1) Prohibition on automatic blanket bans. A regulatory entity may
9 consider an applicant's criminal conviction history in determining whether to
10 grant him or her licensure, but the existence of one or more convictions alone
11 shall not constitute a basis to deny licensure.

12 (2) Scope of criminal record inquiries.

13 (A) A regulatory entity may inquire into or consider only the
14 conviction history of an applicant that is directly related to the profession or
15 that relates to the applicant's suitability for licensure, as determined by the
16 regulatory entity, and may only so inquire after the applicant is found to be
17 otherwise qualified for licensure.

18 (B) A regulatory entity shall not inquire into or consider any
19 applicant's misdemeanor convictions older than three years or felony
20 convictions older than five years.

1 (3) Notice and opportunity to respond.

2 (A) A regulatory entity shall obtain an applicant's authorization prior
3 to obtaining a report of his or her criminal conviction history, and shall provide
4 the applicant with a copy of that report with an accompanying notice that
5 describes any conviction the entity determines to be directly related to the
6 profession or related to the applicant's suitability for licensure.

7 (B) In addition to the provisions of subdivision (4) of this subsection
8 (a), the regulatory entity shall provide the applicant with the opportunity to
9 verify or challenge the information contained in the report.

10 (4) Opportunity to provide evidence of rehabilitation or mitigating
11 circumstances.

12 (A) Prior to the denial of licensure based on an applicant's criminal
13 conviction history, the regulatory entity shall provide the applicant with the
14 opportunity to present evidence of mitigating circumstances or of his or her
15 rehabilitation.

16 (B) A regulatory entity shall not deny such an applicant licensure if
17 the applicant has demonstrated fitness to practice the profession by providing
18 sufficient mitigating circumstances or by showing competent evidence of
19 sufficient rehabilitation, such as completion or probation or parole.

20 (5) Case-by-case assessments. A regulatory entity shall consider
21 applicants with a criminal conviction history on an individual, case-by-case

1 basis and if the entity denies licensure to an applicant based on that history, the
2 entity shall provide to the applicant in writing the rationale for licensure denial,
3 which shall include an assessment of each of the following topics:

4 (A) the nature and seriousness of the crime;

5 (B) the circumstances under which the crime occurred;

6 (C) the date of the crime;

7 (D) the age of the applicant when the crime was committed;

8 (E) whether the crime was an isolated or repeated incident;

9 (F) any social conditions that may have contributed to the crime; and

10 (G) any evidence of the applicant's rehabilitation.

11 (b) A regulatory entity may adopt rules necessary to implement the
12 provisions of this section.

13 § 3122. BIENNIAL REPORT ON LICENSURE DENIALS BASED ON
14 CRIMINAL CONVICTION HISTORIES

15 On or before January 15 of each odd-numbered year, each State regulatory
16 entity shall submit to the General Assembly a report containing the following
17 information:

18 (1) the number of licenses granted in the previous two-year period; and

19 (2) the number of licenses denied in the previous two-year period based

20 on an applicant's criminal conviction history, along with a list of each
21 conviction that constituted the basis for each denial.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2017.