

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 979

(Delegate Barron, *et al.*)

Economic Matters

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Occupational Licenses - Denial for Criminal Conviction - Notice of Prohibition  
and Task Force

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This bill clarifies an existing provision that specified State departments may not deny a license (including a certificate, permit, or registration) to an applicant solely on the basis of the applicant's prior conviction of a crime, except in accordance with existing provisions in the Criminal Procedure Article. Each department and each unit in the department that issues licenses must post notice of this provision prominently on its website. The bill also establishes the Task Force on Occupational Licenses and Criminal Convictions. The task force, which is staffed by the Department of Legislative Services, must study specified issues relating to ex-offenders and occupational licenses and report its findings and recommendations to the Governor and the General Assembly by December 31, 2016.

The bill takes effect July 1, 2016; however, provisions relating to the task force terminate June 30, 2017.

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Fiscal Summary

**State Effect:** The bill is clarifying in nature and generally does not materially affect State finances or operations. The affected departments can post the required notice on their websites with existing budgeted resources. Any expense reimbursements for task force members and staffing costs for the Department of Legislative Services are assumed to be minimal and absorbable within existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The clarifying provisions and the requirements to post information on State websites apply to the Maryland Department of Agriculture; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Human Resources; Department of Labor, Licensing, and Regulation (DLLR); and Department of Public Safety and Correctional Services and each unit in the departments.

The task force must:

- review potential barriers to employment and entrepreneurship related to ex-offenders and occupational licenses, including the denial, suspension, or revocation of occupational licenses for occupational criminal convictions;
- review the criminalization of occupational license violations, including the practicing of an occupation without a license; and
- make recommendations regarding changes to occupational licensing laws that (1) promote the State's policy of encouraging employment of ex-offenders and removing barriers to an ex-offender's ability to demonstrate fitness for an occupational license; (2) protect the integrity of professional occupations while promoting the State's interest in maintaining public safety and reducing costs and burdens to the criminal justice system; and (3) promote consistency in and uniform application of the occupational licensing laws.

**Current Law:** It is the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State. The specified departments and each unit in the departments, except for when an applicant has been previously convicted of a "crime of violence," may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:

- there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or
- the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In making the determination above, the department must consider:

- the policy of the State regarding employment of nonviolent ex-offenders;
- the specific duties and responsibilities required of a licensee or certificate holder;
- whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate;
- the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;
- the seriousness of the offense for which the applicant was convicted;
- other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and
- the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

State law defines 24 distinct "crimes of violence," including murder, rape, and child abuse in the first degree.

**Background:** The specified departments issue a wide array of occupational and professional licenses across the full spectrum of industries – from home improvement contractors to nurses to well drillers. The provisions in current law already apply to the licenses and certificates issued by these departments. The provisions clarified by the bill were enacted by Chapter 686 of 2009.

Generally, applications for occupational licenses and certificates are issued, denied, suspended, or revoked on a discretionary basis by the applicable governing occupational boards in Maryland, based on existing and varied statutory and/or regulatory standards. Many licensing boards and commissions may deny, suspend, or revoke a license or certificate based upon knowledge of a felony conviction or a misdemeanor conviction directly related to the occupation.

**Additional Comments:** DLLR advises that federal law requires the department to deny a mortgage loan officer license to any individual who has been convicted of, plead guilty to, or plead no contest to a felony crime for the preceding seven years before the application date or any time preceding the application date if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 923 (Senator Rosapepe) - Education, Health, and Environmental Affairs.

**Information Source(s):** Office of the Attorney General; Maryland Department of Agriculture; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Legislative Services

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