

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1597

(Delegate Sydnor)

Judiciary

Education, Health, and Environmental Affairs

Occupational Licenses or Certificates – Application Determinations – Use of
Criminal History – Reports

This bill requires specified departments that issue occupational licenses or certificates to report to the Governor and the General Assembly by October 1, 2018, on information related to the denial of licenses or certificates for the preceding five years based on an applicant’s criminal history. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: The affected State agencies can complete the required report with existing budgeted resources; however, some of the information, particularly related to criminal convictions, is not readily available. To the extent that the information exists, it must be gathered manually. Operational effects, which are significant for some agencies, are discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill applies to the Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health (MDH); Department of Human Services; Department of Labor, Licensing, and Regulation (DLLR); Department of Public Safety and Correctional Services; and each unit in the departments. The

information in the report must be for the preceding five years, disaggregated by year, and include:

- how many applications for an occupational license or certificate were received;
- how many applicants had a criminal record that would be applicable under a specified provision of law related to occupational license or certificate denials for nonviolent crimes;
- of the applicants with applicable criminal records, how much time had passed since the criminal conviction, and how many applications were denied on the basis that the applicant had previously been convicted of a crime; and
- of the applications denied on the basis of a previous conviction, under which exemption in current law the application was denied.

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.

Crimes of Violence and Sex Crimes

State law defines 25 distinct “crimes of violence,” including murder, rape, and child abuse in the first degree.

Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment under specified circumstances, is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland.

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. Generally, applications for occupational licenses and certificates are issued, denied, suspended, or revoked on a discretionary basis by the applicable governing occupational boards, commissions, and administrative units 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.

State Expenditures: The affected State agencies can complete the required report with existing budgeted resources; however, some of the information, particularly related to criminal convictions, is not readily available. To the extent that the information exists, it must be gathered manually. The operational effect of the bill is likely related to the number of occupational licenses and certificates issued by each agency. Therefore, DLLR and MDH – which are each responsible for several hundred thousand licensees – are likely the most affected.

DLLR advises that it must review paper files to determine how long it has been since an applicant was convicted of a crime. The files may or may not have the necessary information, at which point the department may need to contact the applicant, who may, in some cases, not provide the necessary information. Further, DLLR may not be able to precisely determine why an application was denied since applications are often denied for multiple reasons. These are all labor and time-intensive activities and determinations. MDH advises that the bill has similar effects: some data may not be available, and what data is available is labor-intensive to collect.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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