

# SENATE BILL 974

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9lr3092

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By: **Senator McCray**

Introduced and read first time: February 18, 2019

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Licenses or Certificates – Application Determinations – Use of**  
3 **Criminal History**

4 FOR the purpose of prohibiting certain departments or local licensing authorities that issue  
5 occupational licenses or certificates from denying an application for a license or  
6 certificate based on an applicant's criminal history if a certain period of time has  
7 passed since the applicant's conviction for a nonviolent crime unless the department  
8 or local licensing authority makes a certain determination; repealing a certain  
9 provision of law that requires a certain department to consider certain information  
10 in making application determinations for occupational licenses or certificates;  
11 authorizing an individual to petition a department or local licensing authority to  
12 make a determination as to whether the individual's prior conviction will disqualify  
13 the individual from an occupational license or certificate; requiring a department or  
14 local licensing authority to include in certain applications a list of specific criminal  
15 convictions that would disqualify an applicant; defining a certain term; establishing  
16 that a certain provision of law relating to a prohibition on certain departments or  
17 licensing authorities considering certain applicants' criminal history does not apply  
18 to individuals who are on parole or probation or the subject of criminal charges; and  
19 generally relating to the use of criminal history in determinations on applications for  
20 occupational licenses or certificates.

21 BY repealing and reenacting, with amendments,  
22 Article – Criminal Procedure  
23 Section 1–209  
24 Annotated Code of Maryland  
25 (2018 Replacement Volume)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
27 That the Laws of Maryland read as follows:

28 **Article – Criminal Procedure**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1–209.

2 (a) (1) In this section[, “department” means:] **THE FOLLOWING WORDS**  
 3 **HAVE THE MEANINGS INDICATED.**

4 **(2) (I) “DEPARTMENT” MEANS:**

5 [(i)] 1. the Department of Agriculture;

6 [(ii)] 2. the Department of the Environment;

7 [(iii)] 3. the Maryland Department of Health;

8 [(iv)] 4. the Department of Human Services;

9 [(v)] 5. the Department of Labor, Licensing, and Regulation; or

10 [(vi)] 6. the Department of Public Safety and Correctional  
 11 Services.

12 [(2)] (II) “Department” includes any unit of a department specified in  
 13 [paragraph (1)] **SUBPARAGRAPH (I)** of this [subsection] **PARAGRAPH.**

14 **(3) “LOCAL LICENSING AUTHORITY” MEANS A PERSON OR**  
 15 **GOVERNMENTAL ENTITY AUTHORIZED BY LAW TO ISSUE OCCUPATIONAL LICENSES**  
 16 **OR CERTIFICATES FOR A COUNTY OR MUNICIPALITY.**

17 [(b) This section does not apply to a person who was previously convicted of a crime  
 18 of violence, as defined in § 14–101 of the Criminal Law Article.]

19 [(c)] (B) It is the policy of the State to encourage the employment of nonviolent  
 20 ex–offenders and remove barriers to their ability to demonstrate fitness for occupational  
 21 licenses or certifications required by the State.

22 (C) (1) **THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO IS:**

23 (I) **ON PAROLE OR PROBATION AT THE TIME OF APPLICATION**  
 24 **FOR A LICENSE OR CERTIFICATE; OR**

25 (II) **THE SUBJECT OF PENDING CRIMINAL CHARGES.**

26 [(d)] (2) [A] **IF A PERIOD OF 5 YEARS OR MORE HAS PASSED SINCE AN**  
 27 **APPLICANT’S CONVICTION FOR A NONVIOLENT CRIME, A department OR LOCAL**  
 28 **LICENSING AUTHORITY** may not deny an occupational license or certificate to [an] **THE**

1 applicant [solely on the basis that the applicant has previously been convicted of a crime],  
2 unless the department **OR LOCAL LICENSING AUTHORITY** determines that:

3 **[(1)] (I)** there is a direct relationship between the applicant's previous  
4 conviction and the specific occupational license or certificate sought, **AFTER**  
5 **CONSIDERING:**

6 **1. THE SPECIFIC DUTIES AND RESPONSIBILITIES**  
7 **REQUIRED OF A LICENSEE OR CERTIFICATE HOLDER; AND**

8 **2. WHETHER THE APPLICANT'S PREVIOUS CONVICTION**  
9 **HAS ANY IMPACT ON THE APPLICANT'S FITNESS OR ABILITY TO PERFORM THE**  
10 **DUTIES AND RESPONSIBILITIES AUTHORIZED BY THE LICENSE OR CERTIFICATE; or**

11 **[(2)] (II)** the issuance of the license or certificate would involve an  
12 unreasonable risk to property or to the safety or welfare of specific individuals or the  
13 general public.

14 **[(e)** In making the determination under subsection (d) of this section, the  
15 department shall consider:

16 (1) the policy of the State expressed in subsection (c) of this section;

17 (2) the specific duties and responsibilities required of a licensee or  
18 certificate holder;

19 (3) whether the applicant's previous conviction has any impact on the  
20 applicant's fitness or ability to perform the duties and responsibilities authorized by the  
21 license or certificate;

22 (4) the age of the applicant at the time of the conviction and the amount of  
23 time that has elapsed since the conviction;

24 (5) the seriousness of the offense for which the applicant was convicted;

25 (6) other information provided by the applicant or on the applicant's behalf  
26 with regard to the applicant's rehabilitation and good conduct; and

27 (7) the legitimate interest of the department in protecting property and the  
28 safety and welfare of specific individuals or the general public.]

29 **(D) AT ANY TIME AN INDIVIDUAL MAY PETITION THE APPROPRIATE**  
30 **DEPARTMENT OR LOCAL LICENSING AUTHORITY TO MAKE A DETERMINATION AS TO**  
31 **WHETHER THE INDIVIDUAL'S PRIOR CONVICTION WOULD DISQUALIFY THE**  
32 **INDIVIDUAL FROM AN OCCUPATIONAL LICENSE OR CERTIFICATION.**

1           **(E) A DEPARTMENT OR LOCAL LICENSING AUTHORITY, ON ANY**  
2 **APPLICATION FOR AN OCCUPATIONAL LICENSE OR CERTIFICATE ISSUED BY THE**  
3 **DEPARTMENT OR LOCAL LICENSING AUTHORITY, SHALL LIST THE SPECIFIC**  
4 **CRIMINAL CONVICTIONS THAT WOULD DISQUALIFY AN APPLICANT FROM BEING**  
5 **GRANTED THE OCCUPATIONAL LICENSE OR CERTIFICATE.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2019.