

# HOUSE BILL 1597

E2

(8lr2065)

## ENROLLED BILL

— Judiciary/Education, Health, and Environmental Affairs —

Introduced by **Delegate Sydnor**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~prohibiting certain departments that issue occupational licenses or~~  
5 ~~certificates from denying an application for a license or certificate based on an~~  
6 ~~applicant's criminal history if a certain period of time has passed since the~~  
7 ~~applicant's conviction for any crime unless the department makes a certain~~  
8 ~~determination under certain circumstances; repealing a certain provision of law that~~  
9 ~~requires a certain department to consider certain information in making application~~  
10 ~~determinations for occupational licenses or certificates; providing for the application~~  
11 ~~of this Act~~ requiring certain Executive Branch Departments to report to the Governor  
12 and the General Assembly, on or before a certain date, regarding how many  
13 applications for occupational licenses and certificates were received during a certain  
14 period of time, how many of these applicants had a certain criminal record, how much  
15 time had passed since the criminal conviction, how many applications were denied on

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 the basis that the applicant had previously been convicted of a crime, and under which  
 2 provision of law the license or certificate was denied; and generally relating to the  
 3 use of criminal history for application determinations of occupational licenses or  
 4 certificates.

5 ~~BY repealing and reenacting, with amendments,~~  
 6 ~~Article — Criminal Procedure~~  
 7 ~~Section 1–209~~  
 8 ~~Annotated Code of Maryland~~  
 9 ~~(2008 Replacement Volume and 2017 Supplement)~~

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 11 That ~~the Laws of Maryland read as follows~~ on or before October 1, 2018, the Department of  
 12 Agriculture, the Department of the Environment, the Maryland Department of Health, the  
 13 Department of Human Services, the Department of Labor, Licensing, and Regulation, and  
 14 the Department of Public Safety and Correctional Services shall report to the Governor and,  
 15 in accordance with § 2–1246 of the State Government Article, the General Assembly,  
 16 disaggregated by year, regarding:

17 (1) how many applications for an occupational license or certificate were  
 18 received during the preceding 5 years;

19 (2) of the applications received under item (1) of this section, how many  
 20 applicants had a criminal record that would be applicable under § 1–209 of the Criminal  
 21 Procedure Article;

22 (3) of the applications described under item (2) of this section:

23 (i) how much time had passed since the criminal conviction; and

24 (ii) how many applications were denied on the basis that the  
 25 applicant had previously been convicted of a crime; and

26 (4) of the applications denied under item (3)(ii) of this section, under which  
 27 specific exemption in § 1–209(d) of the Criminal Procedure Article the license or certificate  
 28 was denied.

29 ~~Article — Criminal Procedure~~

30 ~~1–209.~~

31 (a) (1) ~~In this section, “department” means:~~

32 (i) ~~the Department of Agriculture;~~

33 (ii) ~~the Department of the Environment;~~

- 1           ~~(iii) the Maryland Department of Health;~~  
 2           ~~(iv) the Department of Human Services;~~  
 3           ~~(v) the Department of Labor, Licensing, and Regulation; or~~  
 4           ~~(vi) the Department of Public Safety and Correctional Services.~~

5           ~~(2) "Department" includes any unit of a department specified in paragraph~~  
 6 ~~(1) of this subsection.~~

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

9           ~~[(c) (B) It is the policy of the State to encourage the employment of nonviolent~~  
 10 ~~ex-offenders and remove barriers to their ability to demonstrate fitness for occupational~~  
 11 ~~licenses or certifications required by the State.~~

12           ~~(c) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO IS:~~

13                   ~~(i) ON PAROLE OR PROBATION AT THE TIME OF APPLICATION~~  
 14 ~~FOR A LICENSE OR CERTIFICATE; OR~~

15                   ~~(ii) THE SUBJECT OF PENDING CRIMINAL CHARGES.~~

16           ~~[(d) (2) [A] IF A PERIOD OF 5 YEARS OR MORE HAS PASSED SINCE AN~~  
 17 ~~APPLICANT'S CONVICTION FOR ANY CRIME, EXCEPT AS PROVIDED IN SUBSECTION~~  
 18 ~~(F) OF THIS SECTION, A department may not deny an occupational license or certificate~~  
 19 ~~to [an] THE applicant [solely on the basis that the applicant has previously been convicted~~  
 20 ~~of a crime], unless the department determines that:~~

21                   ~~[(1) (i) there is a direct relationship between the applicant's previous~~  
 22 ~~conviction and the specific occupational license or certificate sought, AFTER~~  
 23 ~~CONSIDERING:~~

24                           ~~1. THE SPECIFIC DUTIES AND RESPONSIBILITIES~~  
 25 ~~REQUIRED OF A LICENSEE OR CERTIFICATE HOLDER; AND~~

26                           ~~2. WHETHER THE APPLICANT'S PREVIOUS CONVICTION~~  
 27 ~~HAS ANY IMPACT ON THE APPLICANT'S FITNESS OR ABILITY TO PERFORM THE~~  
 28 ~~DUTIES AND RESPONSIBILITIES AUTHORIZED BY THE LICENSE OR CERTIFICATE; or~~

29                   ~~[(2) (ii) the issuance of the license or certificate would involve an~~  
 30 ~~unreasonable risk to property or to the safety or welfare of specific individuals or the~~  
 31 ~~general public.~~

~~[(c) In making the determination under subsection (d) of this section, the department shall consider:~~

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

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

~~(3) 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;~~

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

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

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

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

~~**(F) (1) THIS SUBSECTION DOES NOT APPLY TO A CONVICTION OF A CRIME FOR WHICH REGISTRATION ON THE SEX OFFENDER REGISTRY IS REQUIRED UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE.**~~

~~**(2) IF A PERIOD OF 10 YEARS OR MORE HAS PASSED SINCE AN APPLICANT COMPLETED SERVING THE SENTENCE FOR A CRIME, INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE, AND THE APPLICANT HAS NOT BEEN CHARGED WITH ANOTHER CRIME OTHER THAN A MINOR TRAFFIC VIOLATION, AS DEFINED IN § 10-101 OF THIS ARTICLE, DURING THAT TIME, A DEPARTMENT MAY NOT DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO THE APPLICANT SOLELY ON THE BASIS THAT THE APPLICANT WAS PREVIOUSLY CONVICTED OF THE CRIME.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2018.