

HOUSE BILL 1597

E2

8lr2065

By: **Delegate Sydnor**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

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 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; repealing a certain provision of law that requires a certain
9 department to consider certain information in making application determinations
10 for occupational licenses or certificates; providing for the application of this Act; and
11 generally relating to the use of criminal history for application determinations of
12 occupational licenses or certificates.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 1–209
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2017 Supplement)

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

20 **Article – Criminal Procedure**

21 1–209.

22 (a) (1) In this section, “department” means:
23 (i) the Department of Agriculture;
24 (ii) the Department of the Environment;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 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, A department may not deny an occupational
18 license or certificate to [an] THE applicant [solely on the basis that the applicant has
19 previously been convicted of a crime], unless the department determines that:

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

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

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

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

1 [(e) In making the determination under subsection (d) of this section, the
2 department shall consider:

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

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

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

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

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2018.