

Chapter 796

(House Bill 1597)

AN ACT concerning

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

FOR the purpose of ~~prohibiting certain departments that issue occupational licenses or certificates from denying an application for a license or certificate based on an applicant's criminal history if a certain period of time has passed since the applicant's conviction for any crime unless the department makes a certain determination under certain circumstances; repealing a certain provision of law that requires a certain department to consider certain information in making application determinations for occupational licenses or certificates; providing for the application of this Act~~ requiring certain Executive Branch Departments to report to the Governor and the General Assembly, on or before a certain date, regarding how many applications for occupational licenses and certificates were received during a certain period of time, how many of these applicants had a certain criminal record, how much time had passed since the criminal conviction, how many applications were denied on the basis that the applicant had previously been convicted of a crime, and under which provision of law the license or certificate was denied; and generally relating to the use of criminal history for application determinations of occupational licenses or certificates.

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

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

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

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

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

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

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

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

~~Article Criminal Procedure~~

~~1-200.~~

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

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

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

~~(iii) the Maryland Department of Health;~~

~~(iv) the Department of Human Services;~~

~~(v) the Department of Labor, Licensing, and Regulation; or~~

~~(vi) the Department of Public Safety and Correctional Services.~~

~~(2) “Department” includes any unit of a department specified in paragraph (1) of this subsection.~~

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

~~[(c) (B) 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.~~

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

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

~~(II) THE SUBJECT OF PENDING CRIMINAL CHARGES.~~

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

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

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

~~2. 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; or~~

~~[(2)] (II) 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.~~

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

~~(1) the policy of the State expressed in subsection (e) 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.

Approved by the Governor, May 15, 2018.