

SENATE BILL 111

C3, J2, E2

2lr0919

(PRE-FILED)

By: **Senator McCray**

Requested: October 24, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Licenses or Certificates – Pre-application Determinations –**
3 **Criminal Convictions**

4 FOR the purpose of establishing a process for potential applicants for an occupational
5 license or certificate to obtain a determination from a department as to whether
6 certain criminal convictions would be the basis for the denial of an application for a
7 certain occupational license or certificate; and generally relating to pre-application
8 determinations for criminal convictions and occupational licenses or certificates.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 1–209
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2021 Supplement)

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

16 **Article – Criminal Procedure**

17 1–209.

- 18 (a) (1) In this section, “department” means:
- 19 (i) the Department of Agriculture;
- 20 (ii) the Department of the Environment;
- 21 (iii) the Maryland Department of Health;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iv) the Department of Human Services;

2 (v) the Maryland Department of Labor; or

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

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

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

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

11 (d) Except as provided in subsection (f) of this section, a department may not deny
12 an occupational license or certificate to an applicant solely on the basis that the applicant
13 has previously been convicted of a crime, unless the department determines that:

14 (1) there is a direct relationship between the applicant's previous
15 conviction and the specific occupational license or certificate sought; or

16 (2) the issuance of the license or certificate would involve an unreasonable
17 risk to property or to the safety or welfare of specific individuals or the general public.

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

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

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

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

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

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

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

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

3 (f) (1) This subsection does not apply to a conviction of a crime for which
4 registration on the sex offender registry is required under Title 11, Subtitle 7 of this article.

5 (2) If a period of 7 years or more has passed since an applicant completed
6 serving the sentence for a crime, including all imprisonment, mandatory supervision,
7 probation, and parole, and the applicant has not been charged with another crime other
8 than a minor traffic violation, as defined in § 10–101 of this article, during that time, a
9 department may not deny an occupational license or certificate to the applicant solely on
10 the basis that the applicant was previously convicted of the crime.

11 **(G) (1) (I) BEFORE SUBMITTING AN APPLICATION FOR AN
12 OCCUPATIONAL LICENSE OR CERTIFICATE, A POTENTIAL APPLICANT MAY REQUEST
13 FROM A DEPARTMENT A DETERMINATION AS TO WHETHER A SPECIFIED CRIMINAL
14 CONVICTION WOULD BE THE BASIS FOR DENIAL OF THE OCCUPATIONAL LICENSE OR
15 CERTIFICATE TO THE APPLICANT.**

16 **(II) A DEPARTMENT SHALL PROVIDE THE DETERMINATION IN
17 WRITING TO THE POTENTIAL APPLICANT.**

18 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
19 PARAGRAPH, A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS
20 BINDING ON THE DEPARTMENT AND THE APPLICANT ON SUBMISSION OF AN
21 APPLICATION FOR AN OCCUPATIONAL LICENSE OR CERTIFICATE TO THE
22 DEPARTMENT.**

23 **(II) A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH IS NOT BINDING ON THE DEPARTMENT IF, ON THE APPLICANT'S
25 SUBMISSION OF AN APPLICATION FOR AN OCCUPATIONAL LICENSE OR CERTIFICATE
26 TO THE DEPARTMENT, THE APPLICANT:**

- 27 **1. HAS SUBSEQUENTLY BEEN CONVICTED OF A CRIME;**
28 **2. HAS PENDING CRIMINAL CHARGES; OR**
29 **3. HAD PREVIOUSLY UNDISCLOSED CRIMINAL
30 CONVICTIONS.**

31 **(3) (I) A DEPARTMENT MAY SET A REASONABLE FEE TO COVER
32 THE COSTS OF PROVIDING SERVICES UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

1 **(II) THE FEE CHARGED SHALL BE SET SO AS TO PRODUCE**
2 **FUNDS TO APPROXIMATE THE COSTS OF PERFORMING THE SERVICE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2022.