

HOUSE BILL REPORT

HB 1399

As Passed House:

March 1, 2021

Title: An act relating to reducing barriers to professional licensure for individuals with previous criminal convictions.

Brief Description: Reducing barriers to professional licensure for individuals with previous criminal convictions.

Sponsors: Representatives Vick, Kirby, Jacobsen, Simmons, Dufault, Dolan and Young.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/8/21, 2/15/21 [DP];

Appropriations: 2/18/21, 2/19/21 [DP].

Floor Activity:

Passed House: 3/1/21, 98-0.

Brief Summary of Bill

- Creates a process for a person with a criminal conviction to request a determination of whether that criminal history is disqualifying for obtaining a professional license administered by the Department of Licensing.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Serena Dolly (786-7150).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Heidi Cao (786-7157).

Background:

Professional Licensing.

The Department of Licensing (DOL) regulates a number of businesses and professions. For regulated professions, the DOL issues licenses and ensures compliance with professional standards and laws. Examples of professions regulated directly by the DOL, or in coordination with a board or commission, include:

- architects;
- cosmetologists;
- funeral directors;
- real estate brokers; and
- security guards.

Requirements for a professional license, certificate, registration, or permit vary considerably. Some professions may require:

- college-level coursework;
- experience;
- an examination;
- a background check;
- a surety bond, insurance, or other minimum financial standards;
- minimum safety standards;
- continuing education for licensees; or
- duties of care for clients.

Many professions have provisions for some form of reciprocity or consideration of experience from other states or military service. In addition, the DOL and other licensing authorities must expedite the issuance of a broad range of professional licenses, certificates, registrations, or permits for qualified military spouses.

Certificate of Restoration of Opportunity.

A person with a criminal record may be eligible to obtain a Certificate of Restoration of Opportunity (CROP) from a superior court. To be eligible, specific time periods must have

passed since sentencing, supervision, or release from confinement, and an applicant must be in compliance with or have completed all sentencing requirements, including legal financial obligations.

An applicant with any new arrests, convictions, or pending criminal charges or known imminent charges, or who is required to register as a sex offender, is not eligible for a CROP. In addition, an applicant is not eligible if convicted of any of the following: a class A felony, an Attempt to Commit a class A felony, or Criminal Solicitation of or Criminal Conspiracy to commit a class A felony; a sex offense; a crime that includes Sexual Motivation; Extortion in the first degree; Drive-By Shooting; Vehicular Assault; or Luring.

When a qualified applicant holds a CROP and meets all other statutory or regulatory requirements, a licensing authority may not refuse a license, certificate of authority, or qualification to engage in the practice of any profession or business solely based on the applicant's criminal history.

Certain professional licenses are not covered by a CROP, including the following professions regulated by the DOL: accountants; bail bond agents; escrow agents; private investigators; security guards; notaries public; and real estate brokers and salespersons.

Summary of Bill:

An individual with a criminal conviction may submit a preliminary application to the DOL, or a board or commission supported by the DOL, for a determination of whether that criminal history will disqualify the individual from obtaining a professional license. The individual may submit the preliminary application at any time, including before obtaining any required education or paying any licensing fee. The DOL may charge a fee not to exceed \$100 for each preliminary application filed.

Once the preliminary application has been received, the licensing authority must make a determination of whether the individual's criminal conviction would disqualify the person from obtaining a professional license. The licensing authority may disqualify the individual if it determines the individual's criminal conviction is related to the profession. The determination must be made in writing within six months after receiving a preliminary application. An individual may appeal the determination to the licensing authority. A person may not file another preliminary application with the same licensing authority within two years after the final decision on the previous preliminary application, except when the applicant has taken action to remedy the disqualification.

A criminal conviction may not disqualify an individual from obtaining a professional license in any instance where the individual has requested and received a CROP.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2022.

Staff Summary of Public Testimony (Consumer Protection & Business):

(In support) Nearly one-third of all Americans have some type of criminal history. Approximately 25 percent of all jobs require some form of licensing. This is a good social justice bill that helps people move on with life after paying their debt to society. It removes barriers for people living on the margins and is a step toward unraveling systemic racism. The bill does not just remove barriers to getting a job but allows people to pursue a profession. This is an evidence-based bill that makes existing laws and regulations better for workers and people seeking work. Nineteen other states have enacted a similar policy. Recidivism rates are lower in states where people are allowed into the workforce with criminal history.

(Opposed) None.

(Other) The DOL has six months to determine whether an applicant's criminal history is disqualifying for a profession, which is longer than it takes to complete the requirements for some professional licenses. The DOL should be given less time to make the determination.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill allows individuals with criminal convictions to obtain professional and occupational licenses. Studies have shown that having access to professional licenses and employment opportunities can reduce recidivism rates. Laws restricting employment security and opportunities for individuals with criminal records tend to have a disproportionate impact on minorities. This bill grants individuals with a criminal past the certainty of obtaining professional or occupational licenses. It would save these individuals the inconvenience and disappointment should they be rejected from obtaining licenses after they had invested the time and resources in courses and training. This is a simple yet important bill that gives people the opportunity to have a fresh start.

(Opposed) None.

Persons Testifying (Consumer Protection & Business): (In support) Representative Vick, prime sponsor; Jennifer Porter; Todd Myers, Washington Policy Center; Joe Kendo, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations; Vicki Christophersen, Justice Action Network; and Christopher Poulos, Washington Statewide Reentry Council.

(Other) Stephen Slivinski, Center for the Study of Economic Liberty - Arizona State University; and Matt Shafer, Council of State Governments.

Persons Testifying (Appropriations): Todd Myers, Washington Policy Center.

Persons Signed In To Testify But Not Testifying (Consumer Protection & Business):
None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.