

AMENDMENTS TO LB709

Introduced by Government, Military and Veterans Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 Sec. 7. (1) An individual who has a criminal conviction may submit
4 to the appropriate occupational board an application for an occupational
5 license, government certification, or state recognition of the
6 individual's personal qualifications and may include with the application
7 additional information about the individual's current circumstances,
8 mitigating factors, and other evidence of rehabilitation, including:

9 (a) The age of the individual when the individual committed the
10 offense;

11 (b) The time elapsed since the offense;

12 (c) The circumstances and nature of the offense;

13 (d) The completion of the criminal sentence;

14 (e) The completion of, or active participation in, rehabilitative
15 drug or alcohol treatment;

16 (f) Testimonials and recommendations, which may include a progress
17 report from the individual's probation or parole officer;

18 (g) Other evidence of rehabilitation;

19 (h) Education and training;

20 (i) Employment history;

21 (j) Employment aspirations;

22 (k) Family responsibilities at the time of application;

23 (l) Whether the individual is required to be bonded in the
24 occupation; and

25 (m) Other information the individual submits to the appropriate
26 occupational board.

27 (2) Upon receipt of the application pursuant to subsection (1) of

1 this section and any applicable fees, the appropriate occupational board
2 shall make a determination of whether the individual's criminal
3 conviction disqualifies the individual from obtaining such occupational
4 license, government certification, or state recognition of the
5 individual's personal qualifications from that occupational board. In
6 making such determination, an individual's criminal history shall
7 disqualify the individual from obtaining an occupational license,
8 government certification, or state recognition of the individual's
9 personal qualifications only if:

10 (a) Beginning January 1, 2024, the individual has a felony
11 conviction expressly listed as a disqualifying offense in the statutes
12 governing the occupation;

13 (b) The individual's conviction directly and specifically relates to
14 the duties and responsibilities of the occupation; and

15 (c) The individual obtaining such license, certification, or state
16 recognition of the individual's personal qualifications would pose a
17 direct and substantial risk to public safety because the individual has
18 not been rehabilitated, as evidenced by information described in
19 subsection (1) of this section, to safely perform the duties and
20 responsibilities of the occupation.

21 (3) An individual shall not be required to disclose nor shall
22 consideration be given in a determination under this section to the
23 following:

24 (a) A deferred adjudication, participation in a diversion program,
25 or an arrest not followed by a conviction;

26 (b) A conviction of an offense for which no sentence of
27 incarceration is statutorily authorized;

28 (c) A conviction that has been sealed, annulled, dismissed,
29 expunged, or pardoned;

30 (d) A juvenile adjudication;

31 (e) A nonviolent misdemeanor;

1 (f) A conviction older than three years for which the individual was
2 not incarcerated; or

3 (g) A conviction for which the individual's incarceration ended more
4 than three years before the date of the application except for a
5 conviction of a felony related to:

6 (i) A sexual act subject to criminal penalties as provided in
7 sections 28-317 to 28-322.05;

8 (ii) Fraud subject to criminal penalties as provided in sections
9 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

10 (iii) Assault in the first or second degree as provided in sections
11 28-308 and 28-309;

12 (iv) Robbery as provided in section 28-324;

13 (v) Child abuse as provided in section 28-707;

14 (vi) Arson as provided in sections 28-502, 28-503, and 28-504;

15 (vii) Theft as provided in section 28-511;

16 (viii) Kidnapping as provided in section 28-313;

17 (ix) Manslaughter as provided in section 28-305; or

18 (x) Murder as provided in sections 28-303, 28-304, and 28-306.

19 (4) The individual may appeal the determination of the occupational
20 board. The appeal shall be in accordance with the Administrative
21 Procedure Act.

22 Sec. 10. Section 84-947, Revised Statutes Cumulative Supplement,
23 2020, is amended to read:

24 84-947 (1) The fundamental right of an individual to pursue an
25 occupation includes the right of an individual with a criminal history to
26 obtain an occupational license, government certification, or state
27 recognition of the individual's personal qualifications.

28 (2)(a) An individual who has a criminal conviction may submit to the
29 appropriate occupational board a preliminary application for an
30 occupational license, government certification, or state recognition of
31 the individual's personal qualifications for a determination as to

1 whether the individual's criminal conviction would disqualify the
2 individual from obtaining the occupational license, government
3 certification, or state recognition of the individual's personal
4 qualifications from that occupational board. The preliminary application
5 may be submitted at any time, including prior to obtaining required
6 education or paying any fee, other than the fee for the preliminary
7 application if required under subsection (9) ~~(7)~~ of this section.

8 (b) The individual may include with the preliminary application
9 additional information about the individual's current circumstances,
10 mitigating factors, and other evidence of rehabilitation, including:
11 ~~including the time since the offense, completion of the criminal~~
12 ~~sentence, other evidence of rehabilitation, testimonials, employment~~
13 ~~history, and employment aspirations.~~

14 (i) The age of the individual when the individual committed the
15 offense;

16 (ii) The time elapsed since the offense;

17 (iii) The circumstances and nature of the offense;

18 (iv) The completion of the criminal sentence;

19 (v) The completion of, or active participation in, rehabilitative
20 drug or alcohol treatment;

21 (vi) Testimonials and recommendations, which may include a progress
22 report from the individual's probation or parole officer;

23 (vii) Other evidence of rehabilitation;

24 (viii) Education and training;

25 (ix) Employment history;

26 (x) Employment aspirations;

27 (xi) Family responsibilities at the time of the application;

28 (xii) Whether the individual is required to be bonded in the
29 occupation; and

30 (xiii) Other information the individual submits to the board.

31 (3) Upon receipt of a preliminary application under subsection (2)

1 of this section and a fee if required under subsection (9) (7) of this
2 section, the appropriate occupational board shall make a determination of
3 whether the individual's criminal conviction would disqualify the
4 individual from obtaining an occupational license, government
5 certification, or state recognition of the individual's personal
6 qualifications from that occupational board in accordance with subsection
7 (4) of this section. In making such determination, an individual's
8 criminal history disqualifies the individual from obtaining an
9 occupational license, government certification, or state recognition of
10 the individual's personal qualifications only if: -

11 (a) Beginning January 1, 2024, the individual has a felony
12 conviction expressly listed as a disqualifying offense in the statutes
13 governing the occupation;

14 (b) The individual's conviction directly and specifically relates to
15 the duties and responsibilities of the occupation; and

16 (c) The individual obtaining such license, certification, or state
17 recognition would pose a direct and substantial risk to public safety
18 because the individual has not been rehabilitated, as evidenced by
19 information described in subdivision (2)(b) of this section, to safely
20 perform the duties and responsibilities of the occupation.

21 (4) In determining whether an individual's criminal history is
22 disqualifying under subsection (3) of this section, the occupational
23 board shall only make an adverse determination after:

24 (a) The executive director or employee designee of the occupational
25 board issues a preliminary adverse determination after completing the
26 following actions:

27 (i) Providing an opportunity for an informal meeting with the
28 individual, which shall be held in-person, by remote video, or by
29 teleconference within sixty days after receiving an application for
30 consideration. The individual shall be allowed to include character
31 witnesses at such informal meeting. The executive director shall not make

1 an adverse determination based on an individual's decision not to attend
2 an informal meeting or not to include character witnesses; and

3 (ii) Issuing and submitting a written preliminary determination to
4 the appropriate occupational board for consideration and ratification
5 within sixty days after receiving preliminary application for
6 consideration or of the informal meeting, whichever is later. A
7 preliminary adverse decision shall not become final without consideration
8 and ratification by the appropriate occupational board; and

9 (b) The occupational board ratifies the preliminary adverse
10 determination and issues a final adverse determination in writing within
11 ninety days after the issuance of the preliminary adverse determination.

12 (5) (4) The determination of the occupational board shall issue its
13 determination in writing within ninety days after receiving a preliminary
14 application under subsection (2) of this section. The determination shall
15 include findings of fact and conclusions of law, including clear and
16 convincing evidence for any adverse determination made by the
17 occupational board. If the occupational board determines that the
18 individual's criminal conviction would disqualify the individual, the
19 occupational board may advise the individual of any action the individual
20 may take to remedy the disqualification. If the occupational board finds
21 that the individual has been convicted of a subsequent criminal
22 conviction, the occupational board may rescind a determination upon
23 finding that the subsequent criminal conviction would be disqualifying
24 under subsection (3) of this section.

25 (6) An individual shall not be required to disclose nor shall
26 consideration be given in a determination under this section to the
27 following:

28 (a) A deferred adjudication, participation in a diversion program,
29 or an arrest not followed by a conviction;

30 (b) A conviction of an offense for which no sentence of
31 incarceration is statutorily authorized;

1 (c) A conviction that has been sealed, annulled, dismissed,
2 expunged, or pardoned;

3 (d) A juvenile adjudication;

4 (e) A nonviolent misdemeanor;

5 (f) A conviction older than three years for which the individual was
6 not incarcerated; or

7 (g) A conviction for which the individual's incarceration ended more
8 than three years before the date of the application except for a
9 conviction of a felony related to:

10 (i) A sexual act subject to criminal penalties as provided in
11 sections 28-317 to 28-322.05;

12 (ii) Fraud subject to criminal penalties as provided in sections
13 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

14 (iii) Assault in the first or second degree as provided in sections
15 28-308 and 28-309;

16 (iv) Robbery as provided in section 28-324;

17 (v) Child abuse as provided in section 28-707;

18 (vi) Arson as provided in sections 28-502, 28-503, and 28-504;

19 (vii) Theft as provided in section 28-511;

20 (viii) Kidnapping as provided in section 28-313;

21 (ix) Manslaughter as provided in section 28-305; or

22 (x) Murder as provided in sections 28-303, 28-304, and 28-306.

23 (7) (5) The individual may appeal the determination of the
24 occupational board. The appeal shall be in accordance with the
25 Administrative Procedure Act.

26 (8) (6) An individual shall not file another preliminary application
27 under this section with the same occupational board within two years
28 after the final decision on the previous preliminary application, except
29 that if the individual has taken action to remedy the disqualification as
30 advised by the occupational board, the individual may file another
31 preliminary application under this section with the same occupational

1 board six months after the final decision on the previous preliminary
2 application.

3 (9) (~~7~~) An occupational board may charge a fee not to exceed one
4 hundred dollars for each preliminary application filed pursuant to this
5 section. The fee is intended to offset the administrative costs incurred
6 under this section. If an individual's income at the time of the
7 preliminary application is at or below three hundred percent of the
8 federal poverty level, such individual may submit with the preliminary
9 application a request for a waiver of the application fee along with
10 supporting documentation to show such individual's income. If the
11 occupational board determines that the individual's income is at or below
12 three hundred percent of the federal poverty level, the occupational
13 board shall waive such individual's application fee.