

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0445.01 Kristen Forrestal x4217

HOUSE BILL 24-1004

HOUSE SPONSORSHIP

Bacon and Bird,

SENATE SPONSORSHIP

Coleman,

House Committees

Business Affairs & Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF EX-OFFENDERS TO RECEIVE**
102 **AUTHORIZATION TO PRACTICE IN STATE-REGULATED**
103 **OCCUPATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

In determining whether an applicant for a state-regulated occupation is qualified to be registered, certified, or licensed (regulator), the bill allows the regulator to consider an applicant's conviction for a criminal offense if the criminal offense is a violent felony or misdemeanor. If an offense is not violent but would otherwise disqualify

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

a person from becoming registered, certified, or licensed, the regulator of each profession is not permitted to consider the person's criminal conviction for the offense after a 3-year period has passed.

The bill allows an individual to petition a regulator to determine whether a criminal conviction will preclude the person from becoming registered, certified, or licensed prior to that person completing any other requirements for such credentialing.

The bill places the burden of proof for denial of an applicant on the regulator to demonstrate that denial based on the applicant's criminal conviction directly connects to potential performance in the occupation or profession for which the applicant seeks credentialing.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-20-206 as
3 follows:

4 **12-20-206. Regulators - consideration of criminal records -**
5 **petition process - denials - definition.** (1) AS USED IN THIS SECTION,
6 "DIRECTLY RELATED TO" MEANS THAT THE CRIMINAL OFFENSE FOR WHICH
7 THE APPLICANT HAS BEEN CONVICTED HAS A SPECIFIC ELEMENT THAT IS
8 STILL RELEVANT AT THE TIME OF THE INDIVIDUAL'S APPLICATION FOR A
9 REGISTRATION, CERTIFICATION, OR LICENSE, WHICH WOULD MAKE THE
10 INDIVIDUAL UNABLE TO SUCCESSFULLY PRACTICE THE PROFESSION OR
11 OCCUPATION IN WHICH THE INDIVIDUAL HAS APPLIED OR PETITIONED FOR
12 DETERMINATION OF QUALIFICATION.

13 (2) IF AN APPLICANT HAS A VALID CONVICTION FOR A CRIME, THE
14 REGULATOR MAY ONLY CONSIDER THE APPLICANT'S CONVICTION FOR A
15 THREE-YEAR PERIOD BEGINNING ON THE DATE OF CONVICTION OR THE END
16 OF INCARCERATION, WHICHEVER DATE IS LATER, IF THE APPLICANT HAS
17 NOT BEEN CONVICTED OF ANY OTHER CRIMINAL OFFENSE DURING THE
18 THREE-YEAR PERIOD. AFTER THE THREE-YEAR PERIOD, THE REGULATOR
19 SHALL ONLY CONSIDER THE INDIVIDUAL'S APPLICATION FOR

1 REGISTRATION, CERTIFICATION, OR LICENSURE IN THE SAME MANNER AS
2 AN APPLICANT WHO DOES NOT POSSESS A PRIOR CRIMINAL RECORD;
3 EXCEPT THAT THE REGULATOR MAY CONSIDER A CONVICTION FOR A CRIME
4 THAT IS DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION FOR
5 WHICH THE INDIVIDUAL HAS APPLIED FOR REGISTRATION, CERTIFICATION,
6 OR LICENSURE.

7 (3) (a) IF A REGULATOR IS CONSIDERING AN APPLICANT'S CRIMINAL
8 RECORD DURING THE APPLICATION PROCESS FOR REGISTRATION,
9 CERTIFICATION, OR LICENSURE, A REGULATOR MAY ONLY DENY OR REFUSE
10 TO RENEW THE REGISTRATION, CERTIFICATION, OR LICENSE IF THE
11 REGULATOR DETERMINES THAT THE APPLICANT HAS NOT BEEN
12 REHABILITATED AND IS UNABLE TO PERFORM THE DUTIES AND
13 RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION.

14 (b) AN APPLICANT'S CONVICTION FOR A CRIME DOES NOT, IN AND
15 OF ITSELF, DISQUALIFY THE APPLICANT FROM BEING ISSUED A
16 REGISTRATION, CERTIFICATION, OR LICENSE.

17 (4) (a) AN INDIVIDUAL WHOSE CONVICTION MAY AFFECT THE
18 INDIVIDUAL'S APPLICATION FOR REGISTRATION, CERTIFICATION, OR
19 LICENSURE MAY PETITION AT ANY TIME, INCLUDING WHILE INCARCERATED
20 OR BEFORE OBTAINING ANY REQUIRED PERSONAL QUALIFICATIONS, FOR A
21 DECISION FROM A REGULATOR AS TO WHETHER A REGULATOR MAY
22 CONSIDER THE INDIVIDUAL'S CRIMINAL RECORD WHEN REVIEWING THE
23 INDIVIDUAL'S APPLICATION FOR A REGISTRATION, CERTIFICATION, OR
24 LICENSE.

25 (b) AN INDIVIDUAL WHO PETITIONS A REGULATOR SHALL INCLUDE
26 IN THE PETITION:

27 (I) THE INDIVIDUAL'S CRIMINAL RECORD OR AUTHORIZATION FOR

1 THE REGULATOR TO OBTAIN THE INDIVIDUAL'S CRIMINAL RECORD; AND

2 (II) ANY ADDITIONAL INFORMATION ABOUT THE INDIVIDUAL'S
3 CURRENT CIRCUMSTANCES, INCLUDING THE TIME SINCE THE CRIMINAL
4 OFFENSE WAS COMMITTED AND THE SENTENCE WAS COMPLETED, THE
5 PAYMENT OF ANY COURT-ORDERED RESTITUTION, EVIDENCE OF
6 REHABILITATION, TESTIMONIALS, EMPLOYMENT HISTORY, AND
7 EMPLOYMENT ASPIRATIONS.

8 (c) IF A REGULATOR DETERMINES THAT A PETITIONER'S
9 CONVICTION WILL LIKELY BE CONSIDERED, THE REGULATOR SHALL ADVISE
10 THE PETITIONER OF ANY ACTIONS THE PETITIONER MAY TAKE TO REMEDY
11 THE DISQUALIFICATION. IF REMEDIAL ACTION IS ADVISED BY THE
12 REGULATOR, THE PETITIONER MAY SUBMIT A REVISED PETITION ON OR
13 BEFORE A DATE SET BY THE REGULATOR FOR COMPLETION OF THE
14 REMEDIAL ACTIONS.

15 (d) A REGULATOR WHO MAKES AN INITIAL DETERMINATION
16 PURSUANT TO THIS SUBSECTION (4) MAY REQUIRE A NEW DETERMINATION
17 AT THE TIME AN INDIVIDUAL FORMALLY APPLIES FOR REGISTRATION,
18 CERTIFICATION, OR LICENSURE.

19 (5) IN ORDER TO DENY AN APPLICATION FOR REGISTRATION,
20 CERTIFICATION, OR LICENSURE PURSUANT TO THIS SECTION, A REGULATOR
21 BEARS THE BURDEN OF PROOF TO SHOW BY CLEAR AND CONVINCING
22 EVIDENCE THAT THE DENIAL DIRECTLY CONNECTS INFORMATION IN AN
23 APPLICANT'S CRIMINAL RECORD TO POTENTIAL PERFORMANCE IN THE
24 PARTICULAR OCCUPATION OR PROFESSION FOR WHICH THE APPLICANT IS
25 APPLYING FOR REGISTRATION, CERTIFICATION, OR LICENSURE.

26 (6) THIS SECTION DOES NOT:

27 (a) NEGATE ANY PROVISION FOR REGISTRATION, CERTIFICATION,

1 OR LICENSURE IN THIS TITLE 12 THAT REQUIRES AN APPLICANT TO SUBMIT
2 INFORMATION REGARDING THE APPLICANT'S CRIMINAL HISTORY TO A
3 REGULATOR WITH AN APPLICATION;

4 (b) NEGATE ANY OTHER REASON SPECIFIED IN THIS TITLE 12 FOR
5 WHICH A REGULATOR MAY DENY AN APPLICANT REGISTRATION,
6 CERTIFICATION, OR LICENSURE FOR A PROFESSION OR AN OCCUPATION;

7 (c) NEGATE ANY REQUIREMENT UNDER FEDERAL LAW THAT
8 REQUIRES AN INDIVIDUAL TO OBTAIN OR MAINTAIN A REGISTRATION,
9 CERTIFICATION, OR LICENSURE;

10 (d) NEGATE THE LIST OF DETERMINING FACTORS THAT SHALL NOT
11 BE CONSIDERED REGARDING AN APPLICANT'S CRIMINAL RECORD IN
12 SECTION 24-5-101 (2)(b); OR

13 (e) CREATE LIABILITY FOR AN EMPLOYER THAT FAILS TO HIRE AN
14 INDIVIDUAL WHO HAS A REGISTRATION, CERTIFICATION, OR LICENSE
15 PURSUANT TO THIS TITLE 12.

16 **SECTION 2.** In Colorado Revised Statutes, 12-20-202, **amend**
17 **(5)** as follows:

18 **12-20-202. Licenses, certifications, and registrations - renewal**
19 **- reinstatement - fees - occupational credential portability program**
20 **- temporary authority for military spouses - exceptions for military**
21 **personnel - rules - consideration of criminal convictions or driver's**
22 **history - executive director authority - definitions. (5) Criminal**
23 **convictions.** Unless there is a specific statutory disqualification that
24 prohibits an applicant from obtaining licensure, certification, or
25 registration based on a criminal conviction, if a regulator determines that
26 an applicant for licensure, certification, or registration has a criminal
27 record, the regulator is governed by ~~section~~ SECTIONS 12-20-206 AND

1 24-5-101 for purposes of granting or denying, or placing any conditions
2 on, licensure, certification, or registration.

3 **SECTION 3.** In Colorado Revised Statutes, 24-5-101, **amend**
4 (1)(a), (2)(a), (2)(b) introductory portion, (3)(b)(I), (3)(c) introductory
5 portion, (4) introductory portion, and (7) introductory portion as follows:

6 **24-5-101. Effect of criminal conviction on employment rights**
7 **- fee - determination.** (1) (a) Except as otherwise provided in subsection
8 (1)(b) of this section, the fact that a person has been convicted of a felony
9 or other offense ~~involving moral turpitude~~ shall not, in and of itself,
10 prevent the person from applying for and obtaining public employment
11 or from applying for and receiving a license, certification, permit, or
12 registration required by the laws of this state to follow any business,
13 occupation, or profession.

14 (2) (a) (I) ~~Whenever any~~ WHEN A state or local agency is required
15 to make a finding that an applicant for a license, certification, permit, or
16 registration is a person of good moral character as a condition ~~to the~~
17 ~~issuance thereof~~ OF ISSUING THE LICENSE, CERTIFICATION, PERMIT, OR
18 REGISTRATION, or IS REQUIRED TO evaluate the impact of an applicant's
19 criminal record, the fact that such applicant has, at some time ~~prior~~
20 ~~thereto~~, been convicted of a felony or other offense, ~~involving moral~~
21 ~~turpitude, and~~ THE STATE OR LOCAL AGENCY SHALL GIVE CONSIDERATION
22 TO pertinent circumstances connected with ~~such~~ THE conviction ~~shall be~~
23 ~~given consideration~~ in determining whether ~~in fact~~, the applicant is
24 qualified. The intent of this section is to expand employment
25 opportunities for persons who, notwithstanding that fact of conviction of
26 an offense, have been rehabilitated and are ready to accept the
27 responsibilities of a law-abiding and productive member of society.

1 (II) A STATE AGENCY MAKING A FINDING PURSUANT TO
2 SUBSECTION (2)(a)(I) OF THIS SECTION MAY ONLY CONSIDER CONVICTIONS
3 PURSUANT TO SECTION 12-20-206.

4 (b) In evaluating an applicant, ~~an~~ A LOCAL agency shall comply
5 with subsection (4) of this section and A STATE OR LOCAL AGENCY shall
6 not use the determination of the following information as a basis for
7 denial or taking adverse action against any applicant otherwise qualified:

8 (3) (b) (I) With the exception of the department of corrections and
9 the department of public safety, the LOCAL agency shall not perform a
10 background check until the agency determines that an applicant is a
11 finalist or makes a conditional offer of employment to the applicant.

12 (c) If, after determining that an applicant is a finalist or after
13 making a conditional offer of employment to an applicant, the LOCAL
14 agency determines that the applicant has a criminal history, the LOCAL
15 agency shall comply with subsection (4) of this section and shall not use
16 the determination of the following information as a basis for not making
17 an offer of employment or for withdrawing the conditional offer of
18 employment:

19 (4) Except as provided in subsection (6) of this section, when
20 considering an applicant for a license, certification, permit, or registration
21 pursuant to subsection (2) of this section or, if, after determining that an
22 applicant is a finalist or making a conditional offer of employment to an
23 applicant, the LOCAL agency determines that the applicant has a
24 conviction other than as described in subsection (2)(b) or (3)(c) of this
25 section, the LOCAL agency shall consider the following factors when
26 determining whether the conviction disqualifies the applicant:

27 (7) Before a ~~state or~~ local agency makes a final determination that

1 a criminal conviction disqualifies an applicant from receiving a license,
2 certification, permit, or registration, the agency shall provide the applicant
3 with written notice that describes:

4 **SECTION 4. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2024 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

14 (2) This act applies to applications for registration, certification,
15 permitting, or licensure submitted on or after the applicable effective date
16 of this act.