

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 24-0445.01 Kristen Forrestal x4217

HOUSE BILL 24-1004

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A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF EX-OFFENDERS TO RECEIVE**
102 **AUTHORIZATION TO PRACTICE IN STATE-REGULATED**
103 **OCCUPATIONS, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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

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.

SENATE
2nd Reading Unamended
May 7, 2024

HOUSE
3rd Reading Unamended
May 1, 2024

HOUSE
Amended 2nd Reading
April 30, 2024

criminal offense if the criminal offense is a violent felony or misdemeanor. If an offense is not violent but would otherwise disqualify 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 IS STILL RELEVANT AT THE TIME OF
8 THE INDIVIDUAL'S APPLICATION FOR A REGISTRATION, CERTIFICATION, OR
9 LICENSE, WHICH WOULD CREATE AN UNREASONABLE RISK TO PUBLIC
10 SAFETY BECAUSE THE OFFENSE DIRECTLY RELATES TO THE DUTIES AND
11 RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION IN WHICH THE
12 INDIVIDUAL HAS APPLIED OR PETITIONED FOR DETERMINATION OF
13 QUALIFICATION, AS DETERMINED BY A REGULATOR AFTER CONSIDERATION
14 OF ALL EVIDENCE AVAILABLE TO THE REGULATOR.

15 (2) IF AN APPLICANT HAS A CONVICTION FOR A CRIME, A
16 REGULATOR MAY ONLY CONSIDER THE APPLICANT'S CONVICTION FOR A
17 THREE-YEAR PERIOD BEGINNING ON THE DATE OF CONVICTION OR THE END
18 OF INCARCERATION, WHICHEVER DATE IS LATER, IF THE APPLICANT HAS

1 NOT BEEN CONVICTED OF ANY OTHER CRIMINAL OFFENSE DURING THE
2 THREE-YEAR PERIOD. AFTER THE THREE-YEAR PERIOD, THE REGULATOR
3 SHALL ONLY CONSIDER THE INDIVIDUAL'S APPLICATION FOR
4 REGISTRATION, CERTIFICATION, OR LICENSURE IN THE SAME MANNER AS
5 AN APPLICANT WHO DOES NOT POSSESS A PRIOR CRIMINAL RECORD;
6 EXCEPT THAT THE REGULATOR MAY CONSIDER A CONVICTION FOR A CRIME
7 THAT IS DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION FOR
8 WHICH THE INDIVIDUAL HAS APPLIED FOR REGISTRATION, CERTIFICATION,
9 OR LICENSURE.

10 (3) (a) IF A REGULATOR IS CONSIDERING AN APPLICANT'S CRIMINAL
11 RECORD DURING THE APPLICATION PROCESS FOR REGISTRATION,
12 CERTIFICATION, OR LICENSURE, A REGULATOR MAY ONLY DENY OR REFUSE
13 TO RENEW THE REGISTRATION, CERTIFICATION, OR LICENSE IF THE
14 REGULATOR DETERMINES THAT THE APPLICANT HAS NOT BEEN
15 REHABILITATED AND IS UNABLE TO PERFORM THE DUTIES AND
16 RESPONSIBILITIES OF THE PROFESSION OR OCCUPATION WITHOUT CREATING
17 AN UNREASONABLE RISK TO PUBLIC SAFETY.

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

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

1 LICENSE.

2 (b) AN INDIVIDUAL WHO PETITIONS A REGULATOR SHALL INCLUDE
3 IN THE PETITION:

4 (I) THE INDIVIDUAL'S CRIMINAL RECORD OR AUTHORIZATION FOR
5 THE REGULATOR TO OBTAIN THE INDIVIDUAL'S CRIMINAL RECORD; AND

6 (II) ANY ADDITIONAL INFORMATION ABOUT THE INDIVIDUAL'S
7 CURRENT CIRCUMSTANCES, INCLUDING THE TIME SINCE THE CRIMINAL
8 OFFENSE WAS COMMITTED AND THE SENTENCE WAS COMPLETED, THE AGE
9 OF THE APPLICANT AT TIME THE OFFENSE WAS COMMITTED, THE PAYMENT
10 OF ANY COURT-ORDERED RESTITUTION, EVIDENCE OF REHABILITATION,
11 TESTIMONIALS, EMPLOYMENT HISTORY, AND EMPLOYMENT ASPIRATIONS.

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

19 (d) A REGULATOR THAT MAKES AN INITIAL DETERMINATION
20 PURSUANT TO THIS SUBSECTION (4) MAY REQUIRE A NEW DETERMINATION
21 AT THE TIME AN INDIVIDUAL FORMALLY APPLIES FOR REGISTRATION,
22 CERTIFICATION, OR LICENSURE.

23 (5) (a) IN ORDER TO DENY AN APPLICATION FOR REGISTRATION,
24 CERTIFICATION, OR LICENSURE PURSUANT TO THIS SECTION, A REGULATOR
25 BEARS THE BURDEN OF PROOF TO SHOW BY CLEAR AND CONVINCING
26 EVIDENCE THAT THE DENIAL DIRECTLY CONNECTS INFORMATION IN AN
27 APPLICANT'S CRIMINAL RECORD TO POTENTIAL PERFORMANCE IN AND THE

1 POTENTIAL CREATION OF AN UNREASONABLE RISK TO PUBLIC SAFETY
2 THROUGH THE PARTICULAR PROFESSION OR OCCUPATION FOR WHICH THE
3 APPLICANT IS APPLYING FOR REGISTRATION, CERTIFICATION, OR
4 LICENSURE.

5 (b) IF AN INDIVIDUAL HAS FILED A PETITION FOR A DETERMINATION
6 PURSUANT TO SUBSECTION (4) OF THIS SECTION; HAS RECEIVED A NOTICE
7 OF AN AGENCY ADJUDICATORY HEARING AND FILED AN ANSWER TO THE
8 NOTICE PURSUANT TO SECTION 24-4-105; AND FAILS TO APPEAR AT THE
9 SCHEDULED TIME AND PLACE OF THE HEARING, THE ADMINISTRATIVE LAW
10 JUDGE SHALL ENTER A DEFAULT JUDGMENT IN FAVOR OF THE REGULATOR.

11 (6) THIS SECTION DOES NOT:

12 (a) NEGATE ANY PROVISION FOR REGISTRATION, CERTIFICATION,
13 OR LICENSURE IN THIS TITLE 12 THAT REQUIRES AN APPLICANT TO SUBMIT
14 INFORMATION REGARDING THE APPLICANT'S CRIMINAL HISTORY TO A
15 REGULATOR WITH AN APPLICATION;

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

19 (c) NEGATE ANY REQUIREMENT UNDER FEDERAL LAW THAT
20 REQUIRES AN INDIVIDUAL TO OBTAIN OR MAINTAIN A REGISTRATION,
21 CERTIFICATION, OR LICENSURE;

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

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

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

3 **12-20-202. Licenses, certifications, and registrations - renewal**
4 **- reinstatement - fees - occupational credential portability program**
5 **- temporary authority for military spouses - exceptions for military**
6 **personnel - rules - consideration of criminal convictions or driver's**
7 **history - executive director authority - definitions. (5) Criminal**
8 **convictions.** Unless there is a specific statutory disqualification that
9 prohibits an applicant from obtaining licensure, certification, or
10 registration based on a criminal conviction, if a regulator determines that
11 an applicant for licensure, certification, or registration has a criminal
12 record, the regulator is governed by ~~section~~ SECTIONS 12-20-206 AND
13 24-5-101 for purposes of granting or denying, or placing any conditions
14 on, licensure, certification, or registration.

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

18 **24-5-101. Effect of criminal conviction on employment rights**
19 **- fee - determination.** (1) (a) Except as otherwise provided in subsection
20 (1)(b) of this section, the fact that a person has been convicted of a felony
21 or other offense ~~involving moral turpitude~~ shall not, in and of itself,
22 prevent the person from applying for and obtaining public employment
23 or from applying for and receiving a license, certification, permit, or
24 registration required by the laws of this state to follow any business,
25 occupation, or profession.

26 (2) (a) (I) ~~Whenever any~~ WHEN A state or local agency is required
27 to make a finding ~~that~~ REGARDING an applicant for a license, certification,

1 permit, or registration is a person of good moral character as a condition
2 to the issuance thereof OF ISSUING THE LICENSE, CERTIFICATION, PERMIT,
3 OR REGISTRATION, or IS REQUIRED TO evaluate the impact of an applicant's
4 criminal record, AND the fact that such applicant has, at some time, prior
5 thereto, been convicted of a felony or other offense, involving moral
6 turpitude, and THE STATE OR LOCAL AGENCY SHALL GIVE CONSIDERATION
7 TO pertinent circumstances connected with such THE conviction shall be
8 given consideration in determining whether in fact, the applicant is
9 qualified. The intent of this section is to expand employment
10 opportunities for persons who, notwithstanding that fact of conviction of
11 an offense, have been rehabilitated and are ready to accept the
12 responsibilities of a law-abiding and productive member of society.

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

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

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

24 (c) If, after determining that an applicant is a finalist or after
25 making a conditional offer of employment to an applicant, the A LOCAL
26 agency determines that the applicant has a criminal history, the LOCAL
27 agency shall comply with subsection (4) of this section and shall not use

1 the determination of the following information as a basis for not making
2 an offer of employment or for withdrawing the conditional offer of
3 employment:

4 (4) Except as provided in subsection (6) of this section, when
5 considering an applicant for a license, certification, permit, or registration
6 pursuant to subsection (2) of this section or, if, after determining that an
7 applicant is a finalist or making a conditional offer of employment to an
8 applicant, ~~the~~ A LOCAL agency determines that the applicant has a
9 conviction other than as described in subsection (2)(b) or (3)(c) of this
10 section, the LOCAL agency shall consider the following factors when
11 determining whether the conviction disqualifies the applicant:

12 (7) Before a ~~state or~~ local agency makes a final determination that
13 a criminal conviction disqualifies an applicant from receiving a license,
14 certification, permit, or registration, the agency shall provide the applicant
15 with written notice that describes:

16 **SECTION 4. Appropriation.** (1) For the 2024-25 state fiscal
17 year, \$133,216 is appropriated to the department of regulatory agencies.
18 This appropriation is from the division of professions and occupations
19 cash fund created in section 12-20-105 (3), C.R.S. To implement this act,
20 the department may use this appropriation as follows:

21 (a) \$80,203 for use by the division of professions and occupations
22 for personal services, which amount is based on an assumption that the
23 division will require an additional 1.2 FTE;

24 (b) \$8,206 for use by the division of professions and occupations
25 for operating expenses; and

26 (c) \$44,807 for the purchase of legal services.

27 (2) For the 2024-25 state fiscal year, \$44,807 is appropriated to

1 the department of law. This appropriation is from reappropriated funds
2 received from the department of regulatory agencies under subsection
3 (1)(c) of this section and is based on an assumption that the department
4 of law will require an additional 0.2 FTE. To implement this act, the
5 department of law may use this appropriation to provide legal services for
6 the department of regulatory agencies.

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

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