

FINAL BILL REPORT

2ESHB 1553

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Synopsis as Enacted

Brief Description: Encouraging certificates of restoration of opportunity.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Walkinshaw, MacEwen, Ryu, Appleton, Moscoso, Holy, Gregerson, Zeiger, Peterson, Farrell, Walsh, Reykdal, Orwall, Pettigrew, Tharinger, Fitzgibbon and Kagi).

House Committee on Public Safety
Senate Committee on Law & Justice

Background:

Occupational Licensure. Occupation licensure is the process by which a government entity grants individuals permission to engage in a specified professional occupation upon finding that individual applicants have attained the minimal degree of competency required to ensure that the public's health, safety, and welfare will be reasonably well protected. There are at least 120 types of occupations requiring licensing, certification, and registration in Washington state. Some occupational licensure procedures require state entities to conduct criminal background investigations and assess or exclude someone from licensure for certain types of criminal convictions.

Employment and Licensing Disqualification for Felony Convictions. Any state, city, county, or other municipal entity is prohibited from disqualifying a person from employment, or any occupation, trade, vocation, or business for which a state or local license, permit, certificate or registration is required solely because of a prior conviction of a felony. However, a prior conviction may be considered in conjunction with other factors.

There are exceptions allowing disqualification solely based on criminal history when:

- the felony is directly related to the employment or profession sought and it has been fewer than 10 years since conviction;
- the felony was for embezzlement or theft and the position is in a county treasurer's office; or
- the felony was committed against a child and the position is an education position requiring certification or is a position with a school district or educational service district.

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

Health professions are exempt from the prohibition on disqualification. In addition, many other occupations regulated by the state contain specific requirements for considering criminal history, including requirements barring applicants from participating in certain occupations in some contexts.

Summary:

The Certificate of Restoration of Opportunity (CROP) is created.

Eligibility Requirements. A person may obtain a CROP from a superior court if he or she meets certain eligibility requirements. Specific time periods must have passed since sentencing for those sentenced to probation or some other noncustodial sentence, or since release from confinement for those sentenced to jail or prison, before a person is eligible for a CROP. The time periods are as follows:

- one year for misdemeanors and gross misdemeanors when sentenced to probation or some other noncustodial sentence;
- 18 months for misdemeanors and gross misdemeanors when sentenced to a term of confinement;
- two years for a class B or C felony; or
- five years for any violent offense.

An applicant must be in compliance with or completed all sentencing requirements, including legal financial obligations. An applicant is not eligible if he or she has any new arrests, convictions, or pending criminal charges or known imminent charges, or is required to register as a sex offender. An applicant is not eligible if he or she has ever been 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.

Occupational Licensing and Qualifications. When a qualified applicant holds a CROP and meets all other statutory or regulatory requirements, the state and any county, municipal department, board, officer, or agency may not disqualify him or her for 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. The state and other government entities are immune from suit for damages based on the exercise of any discretion with respect to CROPs.

The Department of Social and Health Services (DSHS) and the Department of Health (DOH) have discretion to disqualify an individual who holds a CROP solely based on criminal history if the employment involves unsupervised access to vulnerable adults, children, or individuals with mental illness or developmental disabilities. The DSHS and the DOH are immune from suit for damages based on the exercise of this discretion.

Certain professional licenses are not covered by a CROP, including the following: accountants; assisted living facilities employees; bail bond agents; escrow agents; long-term care workers; nursing home administrators; nurses; physicians and physician assistants; private investigators; receivers; security guards; teachers; notaries public; private investigators; real estate brokers and salespersons; security guards; and vulnerable adult care providers. Criminal justice agencies and the Washington State Bar Association are exempt and may disqualify an individual solely based on criminal history, regardless of whether the individual holds a CROP.

Employment and Housing. An employer or housing provider has the discretion to consider a CROP in making employment or housing decisions. Evidence of a crime for which a CROP has been issued is inadmissible in court for actions alleging negligence or intentionally tortious conduct of an employer or housing provider with respect to the employment or housing of a CROP holder. Employers and housing providers are immune from suit for damages based on the exercise of its discretion to consider a CROP.

Votes on Final Passage:

2015 Regular Session

House 97 0

2016 Regular Session

House 97 0

Senate 49 0

Effective: June 9, 2016