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**HOUSE BILL 2225**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Thai, Santos, Ormsby, and Reed

AN ACT Relating to giving people with criminal records who are rehabilitated a fresh start in occupational licensing in Washington; and amending RCW 18.400.020, 18.400.030, and 9.96A.020.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.400.020 and 2022 c 32 s 1 are each amended to read as follows:

(1) An individual who has a criminal conviction may submit to the appropriate licensing authority a preliminary application for a professional license, government certification, or state recognition of the individual's personal qualifications for a determination as to whether the individual's criminal conviction would disqualify the individual from obtaining the occupational or professional license, government certification, or state recognition of the individual's personal qualifications from that licensing authority. The preliminary application may be submitted at any time, including prior to obtaining required education or paying any fee. Only licenses, certifications, or recognitions administered by the department of licensing or a board or commission with the support of the department of licensing are eligible for a determination under this section.

(2) In making a determination under this section, the appropriate licensing authority must consider, but is not limited to, the following factors:

(a) The nature and seriousness of the offense;

(b) The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession;

(c) The age of the person at the time of the offense;

(d) The length of time elapsed since the offense;

(e) Completion of the criminal sentence; and

(f) Other evidence of rehabilitation, treatment, testimonials, employment history, and employment aspirations.

(3) Upon receipt of a preliminary application, the appropriate licensing authority shall make a determination of whether the individual's criminal conviction would disqualify the individual from obtaining a professional license, government certification, or state recognition of the individual's personal qualifications from that licensing authority. Before issuing a determination, the appropriate licensing authority shall allow the individual to have an informal meeting with the licensing authority or designated staff to address the factors in subsection (2) of this section. The informal meeting may be held in person, by telephone, or by videoconference, and the meeting may include witnesses. The licensing authority may not draw an adverse inference from an individual's decision not to participate in an informal meeting.

(4) The licensing authority shall issue its determination in writing within two months after receiving a preliminary application or holding the informal meeting, whichever is later. If the licensing authority determines that the individual's criminal conviction would disqualify the individual, the licensing authority will provide a written determination that:

(a) Includes the specific factors in subsection (2) of this section that the licensing authority deemed disqualifying;

(b) Advises the individual of any action the individual may take to remedy the disqualification; ((~~and~~))

(c) Provides the earliest date the individual may reapply for a new determination; and

(d) Advises the individual of the right to appeal the determination in accordance with chapter 34.05 RCW.

(5) If the licensing authority finds that the individual has been convicted of a subsequent criminal conviction, or that the individual has failed to disclose a conviction, the licensing authority may rescind a determination upon finding that the subsequent criminal conviction would be disqualifying under subsection (3) of this section.

(6) The individual may appeal the determination of the licensing authority. The appeal shall be in accordance with chapter 34.05 RCW.

(7) An individual whose preliminary application has been disqualified shall not file another preliminary application under this section with the same licensing authority within two years after the final decision on the previous preliminary application, except that if the individual has taken action to remedy the disqualification as advised by the licensing board. If such action has been taken, the individual may file another preliminary application under this section with the same licensing authority six months after the final decision on the previous preliminary application.

(8) A licensing authority shall not charge a fee to a person for any preliminary application filed pursuant to this section.

(9) All licensing authorities shall publish on their website information about the preliminary application process, including the application and notice of the individual's right to appeal a determination of the licensing authority.

**Sec.**  RCW 18.400.030 and 2022 c 32 s 2 are each amended to read as follows:

(1) When issuing a professional license, government certification, or state recognition, and considering a preliminary application, the appropriate licensing authority may not disqualify an individual based on a:

(a) ((~~A conviction~~)) Conviction that has been sealed, dismissed, expunged, vacated, overturned, or pardoned; ((~~or~~))

(b) ((~~A juvenile~~)) Juvenile adjudication;

(c) Deferred adjudication or participation in a diversion program;

(d) Nonviolent misdemeanor; or

(e) Conviction older than three years for which the individual was not incarcerated, or a conviction for which the individual's incarceration ended more than three years before the date of the licensing authority's consideration, except for a conviction of a felony related to a criminal sexual act; aggravated assault; aggravated robbery; aggravated abuse, neglect, or endangerment of a child; arson; carjacking; kidnapping; or manslaughter, homicide, and murder.

(2) The appropriate licensing authority may disqualify an individual from obtaining a professional license, government certification, or state recognition if it determines the individual's conviction is related to the occupation or profession unless the individual has requested and received a certificate of restoration of opportunity under RCW 9.97.020.

**Sec.**  RCW 9.96A.020 and 2016 c 81 s 6 are each amended to read as follows:

(1) Subject to the exceptions in subsections (3) through (5) of this section, and unless there is another provision of law to the contrary, a person is not disqualified from employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, nor is a person disqualified to practice, pursue or engage in any occupation, trade, vocation, or business for which a license, permit, certificate or registration is required to be issued by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations solely because of a prior conviction of a felony or misdemeanor. However, this section does not preclude the fact of ((~~any~~)) a prior conviction of a crime from being considered, except the following criminal convictions may not be considered:

(a) A conviction that has been sealed, dismissed, expunged, vacated, overturned, or pardoned;

(b) A juvenile adjudication;

(c) A deferred adjudication or participation in a diversion program;

(d) A nonviolent misdemeanor; or

(e) A conviction older than three years for which the individual was not incarcerated, or a conviction for which the individual's incarceration ended more than three years before the date of the licensing authority's consideration, except for a conviction of a felony related to a criminal sexual act; aggravated assault; aggravated robbery; aggravated abuse, neglect, or endangerment of a child; arson; carjacking; kidnapping; or manslaughter, homicide, and murder.

(2) A person may be denied employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, or business by reason of the prior conviction of a felony if the felony for which he or she was convicted directly relates to the position of employment sought or to the specific occupation, trade, vocation, or business for which the license, permit, certificate or registration is sought, and the time elapsed since the conviction is less than ((~~ten~~)) 10 years, except as provided in RCW 9.97.020. However, for positions in the county treasurer's office, a person may be disqualified from employment because of a prior guilty plea or conviction of a felony involving embezzlement or theft, even if the time elapsed since the guilty plea or conviction is ((~~ten~~)) 10 years or more.

(3) A person is disqualified for any certificate required or authorized under chapters 28A.405 or 28A.410 RCW, because of a prior guilty plea or the conviction of a felony crime specified under RCW 28A.400.322, even if the time elapsed since the guilty plea or conviction is ((~~ten~~)) 10 years or more.

(4) A person is disqualified from employment by school districts, educational service districts, and their contractors hiring employees who will have regularly scheduled unsupervised access to children, because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, even if the time elapsed since the guilty plea or conviction is ((~~ten~~)) 10 years or more, except as provided in RCW 9.97.020.

(5) The provisions of this chapter do not apply to issuance of licenses or credentials for professions regulated under chapter 18.130 RCW.

(6) Subsections (3) and (4) of this section as they pertain to felony crimes specified under RCW 28A.400.322(1) apply to a person applying for a certificate or for employment on or after July 25, 1993, and before July 26, 2009. Subsections (3) and (4) of this section as they pertain to all felony crimes specified under RCW 28A.400.322(2) apply to a person applying for a certificate or for employment on or after July 26, 2009. Subsection (5) of this section only applies to a person applying for a license or credential on or after June 12, 2008.

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