

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 637 Session of 2019

INTRODUCED BY DiSANTO, SCHWANK, BAKER, GORDNER, MENSCH, COLLETT, MARTIN, A. WILLIAMS, PHILLIPS-HILL, FARNESE, LEACH, BREWSTER, BARTOLOTTA, TARTAGLIONE, K. WARD AND KILLION, MAY 13, 2019

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, MAY 13, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
 2 Consolidated Statutes, in criminal history record
 3 information, further providing for use of records by
 4 licensing agencies.

5 The General Assembly of the Commonwealth of Pennsylvania
 6 hereby enacts as follows:

7 Section 1. Section 9124(a), (b) and (c) of Title 18 of the
 8 Pennsylvania Consolidated Statutes are amended and the section
 9 is amended by adding subsections to read:

10 § 9124. Use of records by licensing agencies.

11 (a) State agencies.--[Except as provided by this chapter, a]
 12 A board, commission or department of the Commonwealth, when
 13 determining eligibility for licensing, certification,
 14 registration or permission to engage in a trade, profession or
 15 occupation, may consider convictions of the applicant of crimes
 16 [but the convictions] only in accordance with this chapter.
 17 Convictions shall not automatically preclude the issuance of a
 18 license, certificate, registration or permit.

1 (b) Prohibited use of information.--[The] Notwithstanding
2 any other provision of law concerning licensing, certification,
3 registration or permitting, the following information shall not
4 be used in consideration of an application for a license,
5 certificate, registration or permit:

6 (1) Records of arrest if there is no conviction of a
7 crime based on the arrest.

8 (2) Convictions which have been annulled [or], expunged
9 or subject to limited access under sections 9122.1 (relating
10 to petition for limited access) and 9122.2 (relating to clean
11 slate limited access).

12 (3) Convictions of a summary offense.

13 (4) Convictions for which the individual has received a
14 pardon from the Governor.

15 (5) Convictions which do not [relate to the applicant's
16 suitability for the license, certificate, registration or
17 permit.] directly relate to the trade, occupation or
18 profession for which the license, certificate, registration
19 or permit is sought.

20 (6) Adjudications of delinquency.

21 (c) State action authorized.--[Boards,] Notwithstanding any
22 other provision of law concerning licensing, certification,
23 registration or permitting, the boards, commissions or
24 departments of the Commonwealth authorized to license, certify,
25 register or permit the practice of trades, occupations or
26 professions may refuse to grant or renew, or may suspend or
27 revoke any license, certificate, registration or permit [for the
28 following causes:

29 (1) Where the applicant has been convicted of a felony.

30 (2) Where the applicant has been convicted of a

1 misdemeanor which relates to the trade, occupation or
2 profession for which the license, certificate, registration
3 or permit is sought.] based in whole or in part on a
4 conviction of a crime if all of the following apply:

5 (1) The applicant has been convicted of a felony or a
6 misdemeanor which directly relates to the trade, occupation
7 or profession for which the license, certificate,
8 registration or permit is sought.

9 (2) The board, commission or department has conducted an
10 individualized assessment of the relation of the conviction
11 to the applicant's overall suitability to engage in the
12 trade, occupation or profession for which the license,
13 certificate, registration or permit is sought. An
14 individualized assessment conducted under this paragraph
15 shall include a consideration of the particular facts or
16 circumstances surrounding the offense or criminal conduct,
17 the length of time since the offense or criminal conduct
18 occurred and the grade and seriousness of the offense or
19 criminal conduct.

20 (c.1) Exception.--A board, commission or department may not
21 refuse to grant or renew and may not suspend or revoke any
22 license, certificate, registration or permit under subsection
23 (c) if the applicant can establish sufficient mitigation or
24 rehabilitation and fitness to perform the duties of the trade,
25 occupation or profession for which the license, certificate,
26 registration or permit is sought. Where criminal conduct is
27 directly related to the license, certificate, registration or
28 permit being sought, the board, commission or department shall
29 consider relevant proof of any factors that would rebut an
30 adverse presumption or show rehabilitation, including:

1 (1) Facts or circumstances regarding the offense or
2 criminal conduct.

3 (2) Number of offenses for which the applicant was
4 convicted.

5 (3) Increase in age and maturity of the applicant since
6 the date of the conviction for the offense or release from a
7 correctional institution.

8 (4) The applicant's criminal history, or lack thereof,
9 after the date of the offense or criminal conduct while
10 engaged in the same or similar trade, occupation or
11 profession for which the license, certificate, registration
12 or permit is sought.

13 (5) Length and consistency of employment history before
14 and after the date of the offense or criminal conduct.

15 (6) Participation in education or training activities.

16 (7) Employment or character references and any other
17 information regarding fitness for trade, occupation or
18 profession for which the license, certificate, registration
19 or permit is sought.

20 (8) Whether the applicant is bonded under a Federal,
21 State or local bonding program.

22 (9) Any other factors to rebut an adverse presumption or
23 present relevant individual circumstances to show
24 rehabilitation.

25 * * *

26 (e) Petitions.--An individual with a criminal history record
27 may petition a board, commission or department at any time,
28 including before obtaining education or training, for a
29 preliminary decision on whether the individual's criminal
30 history record might disqualify the individual from receiving a

1 license, certificate, registration or permit.

2 (f) Limitations.--A board, commission or department may only
3 consider criminal history records and determinations of whether
4 to grant, deny, suspend, revoke or renew a license, certificate,
5 registration or permit on the grounds of good moral character, a
6 crime of moral turpitude, an unethical or dishonest practice or
7 conduct or other categorical consideration in accordance with
8 the limitations specified under this section. The provisions of
9 this section shall supersede any law or regulation of this
10 Commonwealth to the contrary.

11 (g) Regulations.--A board, commission or department shall
12 promulgate regulations regarding the consideration of criminal
13 history records as part of the determination on whether or not
14 to grant, deny, suspend, revoke or renew a license, certificate,
15 registration or permit.

16 Section 2. This act shall take effect in 60 days.