

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 770
Committee Substitute Favorable 4/29/19
Committee Substitute #2 Favorable 5/2/19

Short Title: Freedom to Work.

(Public)

Sponsors:

Referred to:

April 16, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ADMINISTRATIVE AGENCIES, GOVERNMENTAL OFFICIALS,
3 AND COURTS IN CIVIL PROCEEDINGS TO CONSIDER A CERTIFICATE OF RELIEF
4 FAVORABLY; TO REQUIRE INCREASED STANDARDS FOR A LICENSING
5 BOARD'S USE OF AN APPLICANT'S CRIMINAL HISTORY IN MAKING
6 DETERMINATIONS; AND TO REQUIRE RECOGNITION BY LICENSING BOARDS
7 OF CERTAIN APPRENTICESHIP AND TRAINING EXPERIENCES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 15A-173.2(d) reads as rewritten:

10 "(d) Unless modified or revoked, a Certificate of Relief relieves all collateral sanctions,
11 except those listed in G.S. 15A-173.3, those sanctions imposed by the North Carolina
12 Constitution or federal law, and any others specifically excluded in the certificate. A Certificate
13 of Relief does not automatically relieve a disqualification; however, an administrative agency,
14 governmental official, or court in a civil proceeding ~~may~~ shall consider a Certificate of Relief
15 favorably in determining whether a conviction should result in disqualification."

16 SECTION 2. G.S. 93B-8.1 reads as rewritten:

17 "§ 93B-8.1. Use of criminal history records.

18 ...

19 (b) Unless ~~the federal~~ law governing a particular ~~occupational licensing board~~ occupation
20 provides otherwise, a board shall not automatically deny licensure on the basis of an applicant's
21 criminal history. If the board is authorized to deny a license to an applicant on the basis of
22 conviction of ~~any crime or for commission of a crime involving fraud or moral turpitude, a crime,~~
23 and the applicant's verified criminal history record reveals one or more convictions of any crime,
24 the board may deny the license if it ~~finds~~ finds, by clear and convincing evidence, that denial is
25 warranted after consideration of the following factors: the applicant's criminal history is directly
26 related to the duties and responsibilities for the licensed occupation. The licensing authority shall
27 make their determination based on the following factors:

- 28 (1) The level and seriousness of the crime.
29 (2) The date of the crime.
30 (3) The age of the person at the time of the crime.
31 (4) The circumstances surrounding the commission of the crime, if known.
32 (5) The nexus between the criminal conduct and the prospective duties of the
33 applicant as a licensee.
34 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
35 the applicant since the date the crime was committed.



1 (7) The subsequent commission of a crime by the applicant.
2 (8) Any affidavits or other written documents, including character references.
3 (b1) If an applicant was granted a Certificate of Relief under G.S. 15A-173.2, then that
4 certificate must be considered favorably by the board.

5 (c) The board may deny licensure to an applicant who refuses to consent to a criminal
6 history record check or use of fingerprints or other identifying information required by the State
7 or National Repositories of Criminal Histories.

8 (d) This section does not apply to The North Carolina Criminal Justice Education and
9 Training Standards Commission and the North Carolina Sheriffs' Education and Training
10 Standards Commission.

11 (e) An individual with a criminal history may petition a board at any time, including
12 before an individual starts or completes any mandatory education or training requirements, for a
13 determination of whether the individual's criminal history will disqualify the individual from
14 obtaining a license. This petition shall include details on the individual's criminal history. A board
15 may determine that the petitioner's criminal history is grounds for denial of a license only after
16 the board has applied the requirements of subsection (b) of this section. The board shall inform
17 the individual of the board's determination within 30 days of receiving the petition from the
18 individual. If the individual's petition is denied, the board shall notify the individual in writing of
19 the following:

20 (1) The grounds and reasons for the denial or disqualification.

21 (2) That the individual has the right to a hearing to challenge the licensing
22 authority's decision.

23 (3) The earliest date the person may reapply for a license.

24 (4) What further evidence of rehabilitation will be considered upon reapplication.

25 (f) A determination made under subsection (e) of this section that a petitioner is eligible
26 for a license shall be binding if an applicant fulfills all other requirements for the occupational
27 license and the applicant's submitted criminal history was correct and remains unchanged at the
28 time of application for a license."

29 **SECTION 3.** Chapter 93B of the General Statutes is amended by adding a new
30 section to read:

31 **"§ 93B-8.6. Recognition of apprenticeships and training.**

32 (a) The following definitions shall apply in this section:

33 (1) Apprenticeship. – A program that meets the federal guidelines set out in 29
34 C.F.R. Part 29 and 29 U.S.C. § 50. An apprenticeship can be completed under
35 a State-licensed practitioner of that occupation or at a State-licensed school.

36 (2) Career technical education. – Programs of study, clusters, and pathways
37 approved by the North Carolina State Board of Education pursuant to State
38 board policy.

39 (3) Licensing. – Any required training, education, or fee to work in a specific
40 profession.

41 (b) An occupational licensing board shall grant a license to any applicant who meets the
42 following criteria:

43 (1) Completed an apprenticeship approved by the State or federal Department of
44 Labor, or otherwise permitted under State or federal law.

45 (2) Passed an examination, if one is deemed to be necessary by the licensing
46 authority.

47 (b1) This section shall not apply to occupational licensing boards governing professions
48 requiring advanced knowledge acquired by a prolonged course of specialized intellectual study
49 such as those requiring a bachelor's or advanced degree.

50 (c) Each occupational licensing board shall establish a passing score for the board's
51 examinations which shall not exceed the passing score that is required under the board's standard

1 licensing processes. If the relevant law or rule does not require an examination for the standard
2 licensing process, no examination may be required for applicants who complete an
3 apprenticeship in that occupation. Except as otherwise required by federal law, apprenticeships
4 for an occupation shall not be required to exceed the number of hours required by the relevant
5 licensing authority or statute for that occupation.

6 (d) Applicants for licensure shall be permitted to apply training hours earned through
7 career technical education provided by North Carolina public schools and colleges towards the
8 requirements for licensure in the same occupation in accordance with the standards and
9 procedures authorized in accordance with this Chapter.

10 (e) The State Board of Community Colleges and occupational licensing boards shall
11 adopt rules for the implementation of this section."

12 **SECTION 4.** This act becomes effective October 1, 2019, and applies to Certificates
13 of Relief granted or applications for licensure submitted on or after that date.