

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 770  
Committee Substitute Favorable 4/29/19

Short Title: Freedom to Work.

(Public)

Sponsors:

Referred to:

April 16, 2019

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

...

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

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



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1 (8) Any affidavits or other written documents, including character references.

2 (b1) If an applicant was granted a Certificate of Relief under G.S. 15A-173.2, then that  
3 certificate must be considered favorably by the board.

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

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

10 (e) An individual with a criminal history may petition a board at any time, including  
11 before an individual starts or completes any mandatory education or training requirements, for a  
12 determination of whether the individual's criminal history will disqualify the individual from  
13 obtaining a license. This petition shall include details on the individual's criminal history. A board  
14 may determine that the petitioner's criminal history is grounds for denial of a license only after  
15 the board has applied the requirements of subsection (b) of this section. The board shall inform  
16 the individual of the board's determination within 30 days of receiving the petition from the  
17 individual. The board may charge a fee to recoup its costs not to exceed twenty-five dollars  
18 (\$25.00) for each petition. If the individual's petition is denied, the board shall notify the  
19 individual in writing of 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.