

2022 Regular Session

SENATE BILL NO. 303

BY SENATOR FOIL

FEES/LICENSES/PERMITS. Provides for occupational or professional licensure of a person with a criminal history. (8/1/22)

1 AN ACT  
2 To amend and reenact Chapter 1-C of Title 37 of the Louisiana Revised Statutes of 1950,  
3 comprised of R.S. 37:31 through 36, and to repeal R.S. 37:2950, relative to  
4 occupational or professional licenses for ex-offenders; to provide for access to  
5 occupational or professional licensure; to provide for employment restrictions; to  
6 provide for requirements applicable to the issuance of licences to ex-offenders; to  
7 provide for the definition of licensing entity; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 1-C of Title 37 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 37:31 through 36, is hereby amended and reenacted to read as follows:

11 CHAPTER 1-C. LICENSES FOR EX-OFFENDERS

12 §31. Short title

13 This Chapter shall be known and may be cited as the "Licenses for  
14 Ex-Offenders Act".

15 §32. ~~Issuance of licenses to ex-offenders~~ **Criminal record effect on trade and**  
16 **occupational and professional licensing**

17 ~~Notwithstanding any provision of law or rule adopted and promulgated by~~

1 ~~any state department, agency, board, commission, or authority to the contrary, an~~  
2 ~~entity issuing licenses, except for those listed in R.S. 37:36(E), for persons to engage~~  
3 ~~in certain fields of work pursuant to state law shall issue to an otherwise-qualified~~  
4 ~~applicant who has been convicted of an offense or offenses, except those described~~  
5 ~~in R.S. 37:36(A) through (C), the license for which the applicant applied if the~~  
6 ~~applicant meets all other requirements of the licensing qualifications, except those~~  
7 ~~pertaining to former offenses.~~

8 **A. As used in this Chapter the term "licensing entity" means any**  
9 **professional or occupational board or commission established in this Title that**  
10 **is authorized to issue a permit, license, certificate, or registration to a person**  
11 **engaged in an occupation or profession.**

12 **B.(1) Notwithstanding any other provisions of law to the contrary, a**  
13 **person shall not be disqualified, or held ineligible to practice or engage in any**  
14 **occupation or profession for which a license, permit, certificate, or registration**  
15 **is required to be issued by the state or any agency or political subdivision of the**  
16 **state, solely or partly because of a prior criminal record, except in cases in**  
17 **which a conviction directly relates to the position of employment sought, or to**  
18 **the occupation or profession for which the license, permit, certificate, or**  
19 **registration is sought.**

20 **(2) In determining whether a conviction directly relates to the position**  
21 **of employment sought, or the occupation or profession for which the license,**  
22 **permit, certificate, or registration is sought, a licensing entity shall consider all**  
23 **of the following:**

24 **(a) The nature and seriousness of the offense.**

25 **(b) The nature of the specific duties and responsibilities for which the**  
26 **license, permit, certificate, or registration is required.**

27 **(c) The amount of time that has passed since the conviction.**

28 **(d) The age of the person at the time the offense was committed.**

29 **(e) Evidence relevant to the circumstances of the offense, including any**

1 aggravating or mitigating circumstances or social conditions surrounding the  
2 commission of the offense.

3 (f) Evidence of rehabilitation or treatment undertaken by the person  
4 since the conviction.

5 C. Except as provided in Subsection B of this Section, a person shall not  
6 be disqualified, or held ineligible, to practice or engage in any occupation or  
7 profession for which a license, permit, certificate, or registration is required to  
8 be issued by the state or any agency or political subdivision of the state for any  
9 of the following reasons:

10 (1) An arrest that was not followed by a conviction, unless charges are  
11 currently pending.

12 (2) A juvenile court adjudication.

13 (3) A conviction that has been pardoned, sealed, or expunged.

14 (4) A conviction for a misdemeanor not involving violence.

15 (5) A conviction for which more than ten years have elapsed since the  
16 date of conviction or release from incarceration, whichever occurred later,  
17 provided the person has not been convicted of a crime other than a non-violent  
18 misdemeanor in the previous ten years.

19 D. Any complaints concerning violations of this Section shall be  
20 adjudicated in accordance with procedures set forth for administrative and  
21 judicial review, contained in Title 49 of the Louisiana Revised Statutes of 1950.

22 E. The provisions of Paragraphs (C)(4) and (5) of this Section shall not  
23 be applicable to the following:

24 (1) The Louisiana State Board of Medical Examiners.

25 (2) The Louisiana State Board of Dentistry.

26 (3) The Louisiana State Board of Nursing.

27 (4) The Louisiana State Board of Practical Nurse Examiners.

28 (5) The Louisiana Board of Pharmacy.

29 (6) The Louisiana State Bar Association.



1 determination that a criminal conviction shall result in the denial of a license,  
2 the licensing entity shall provide written notice to the individual making the  
3 pre-application determination of the following information:

4 (1) ~~A new felony for which he is convicted.~~ The specific conviction that is  
5 the basis for the intended denial.

6 (2) ~~A violation of law or rules governing the practice of the field of work for~~  
7 ~~which the license was issued.~~ The reason the conviction was determined to be  
8 directly related to the licensed activity, including findings for each of the factors  
9 in R.S. 37:32(B)(2) that the licensing entity deemed relevant to the  
10 determination.

11 (3) The right to submit additional evidence relevant to each of the factors  
12 listed in R.S. 37:32(B)(2) within sixty days of the date the notice was mailed, the  
13 licensing entity shall consider the additional evidence submitted before issuing  
14 a final determination.

15 B. ~~A court shall notify the licensing entity if the holder of the license is~~  
16 ~~charged with a new offense.~~ A final determination that a criminal conviction shall  
17 prevent a person from receiving a license shall be in writing and shall include  
18 notice of the right to appeal the determination in accordance with the  
19 Administrative Procedure Act and the earliest date the applicant may reapply  
20 for the license.

21 C. ~~If a licensing entity revokes a license pursuant to this Section, each of the~~  
22 ~~following apply:~~

23 (1) ~~The holder shall not be entitled to receive another license for which the~~  
24 ~~applicant originally applied, even if otherwise qualified.~~

25 (2) ~~The ability of the holder to subsequently obtain another license from~~  
26 ~~another licensing entity in the future is within the sole discretion of the issuing entity.~~

27 §35. ~~License; issuance; discretion of issuer~~ Information for applicants

28 ~~Nothing in this Chapter shall be implicitly interpreted to preclude an entity~~  
29 ~~from exercising its existing discretion to issue a license to individuals not covered~~

1 pursuant to the provisions of this Chapter, except where precluded by another law.

2 Each licensing entity shall include in its application for licensure and publish on  
3 its public website the following information:

4 (1) Whether a criminal conviction of an applicant may be used as a basis  
5 for denial.

6 (2) If criminal history may be used as a basis for denial, the factors listed  
7 in R.S. 37:32(B)(2) that the licensing entity shall consider.

8 (3) Notice of the right to request from the licensing entity a  
9 determination pursuant to the provisions of R.S. 37:33 prior to meeting the  
10 general qualifications for licensure.

11 §36. Exemptions; prohibitions; records; **Records**; reports

12 A. A licensing entity shall not be required to issue a license to any person  
13 convicted of any of the following:

14 (1) Any grade of homicide enumerated in R.S. 14:29.

15 (2) A "crime of violence" as enumerated in R.S. 14:2(B).

16 (3) A "sex offense" as defined by R.S. 15:541.

17 B. A licensing entity shall not be required to issue a license to any person  
18 convicted of an offense involving fraud if the licensed field of work is one in which  
19 the licensee owes a fiduciary duty to a client.

20 C. A licensing entity shall not be required to issue a license to an applicant  
21 whose conviction directly relates to the position of employment sought, or to the  
22 specific field for which the license is required, or profession for which the license is  
23 sought.

24 D. A license holder who supervises children or individuals who lack mental  
25 capacity shall not do so without another licensee in the room at all times.

26 E.(1) This Chapter shall not apply to the following licensing entities:

27 (a) Any law enforcement agency.

28 (b) The Louisiana State Board of Medical Examiners.

29 (c) The Louisiana State Board of Dentistry.

- 1                   ~~(d) The Louisiana State Board of Nursing.~~
- 2                   ~~(e) The Louisiana State Board of Practical Nurse Examiners.~~
- 3                   ~~(f) The Louisiana State Racing Commission.~~
- 4                   ~~(g) The State Boxing and Wrestling Commission.~~
- 5                   ~~(h) The Louisiana Board of Pharmacy.~~
- 6                   ~~(i) The Louisiana Supreme Court.~~
- 7                   ~~(j) The Louisiana Professional Engineering and Land Surveying Board.~~
- 8                   ~~(k) The Louisiana State Board of Architectural Examiners.~~
- 9                   ~~(l) The Louisiana State Board of Private Investigator Examiners.~~
- 10                  ~~(m) The Louisiana State Board of Embalmers and Funeral Directors.~~
- 11                  ~~(n) The Louisiana State Board of Elementary and Secondary Education.~~
- 12                  ~~(o) The Office of Financial Institutions.~~
- 13                  ~~(p) The Louisiana Physical Therapy Board.~~
- 14                  ~~(q) The Louisiana Board of Massage Therapy.~~
- 15                  ~~(r) The office of alcohol and tobacco control of the Department of Revenue.~~
- 16                  ~~(s) The health standards section of the Louisiana Department of Health.~~
- 17                  ~~(t) The Department of Insurance.~~
- 18                  ~~(u) The Louisiana State Board of Social Work Examiners.~~
- 19                  ~~(v) The Louisiana State Board of Examiners of Psychologists.~~
- 20                  ~~(w) The Louisiana Behavior Analyst Board.~~
- 21                  ~~(x) All offices, boards, or commissions under the supervision of the deputy~~
- 22                  ~~secretary of the Department of Public Safety and Corrections, public safety services,~~
- 23                  ~~or the superintendent of the Louisiana State Police, which are not delineated in this~~
- 24                  ~~Section.~~
- 25                  ~~(y) The Louisiana Real Estate Commission.~~
- 26                  ~~(z) The Louisiana Real Estate Appraisers Board.~~
- 27                  ~~(aa) The Louisiana Licensed Professional Counselors Board of Examiners.~~
- 28                  ~~(2) Nothing in this Subsection shall be construed to preclude the licensing~~
- 29                  ~~entity, in its discretion, from adopting the provisions of this Chapter as policies or~~



Proposed law defines "licensing entity".

Proposed law provides that a person shall not be disqualified from receiving a license, permit, certificate, or registration, solely or partly, because of prior criminal record, except where the conviction is directly related to the employment position sought, occupation or profession sought.

Proposed law provides for factors to be considered for applicants with prior criminal convictions.

Proposed law provides that complaints concerning any violations of proposed law shall be adjudicated in accordance with administrative and judicial review.

Proposed law provides for licensing entities exempt from proposed law.

Proposed law provides relative to procedures for pre-application eligibility determination for individuals applying for occupational, or professional licenses, permits, certifications, or registrations.

Present law provides that a licensing entity is not required to issue a license to any person convicted of any of the following:

- (1) Any grade of homicide enumerated in R.S. 14:29.
- (2) A "Crime of violence" as enumerated in R.S. 14:2(B).
- (3) A "sex offense" as defined by R.S. 15:541.

Proposed law deletes present law.

Proposed law makes technical changes.

Effective August 1, 2022.

(Amends R.S. 37:31-36; repeals R.S. 37:2950))