



April 2021

Dear Colleague –

In connection to reentry efforts and in recognition of Second Chance Month, we want to ensure your awareness of statutory changes regarding occupational licensing that impact your agency work.

The State Reentry Council Collaborative ([SRCC](#)) includes representatives from state agencies, institutions of higher education, businesses, non-profits, faith- and community-based organizations and works to help justice-involved individuals successfully return to their communities and rebuild their lives after incarceration. One of the SRCC's main recommendations in 2019 was for all licensing boards to remove ambiguous and subjective terms, such as "moral turpitude," from regulations related to occupational licensing or certification.¹

In response to the SRCC and other stakeholders' recommendations on this issue, the General Assembly enacted H.B. 770, the Freedom to Work/Occupational Licensing Board Reform bill ([S.L. 2019-91](#)) which became effective on October 1, 2019. If you are not familiar with this legislation, you can learn more about how this law changes occupational licensing practices on the next page.

Research demonstrates that increasing employment opportunities for formerly incarcerated individuals decreases recidivism and, in turn, makes our communities safer. However, in North Carolina, more than 400 occupations require some form of licensure. When that is coupled with the fact that an estimated 2 million North Carolinians have criminal records, and criminal records are routinely used to deny people occupational licenses, it is no wonder that employment rates are lower among justice-involved individuals, resulting in a loss of state tax revenue. The COVID-19 pandemic has only compounded the difficulties that jobseekers with criminal records face.

Everyone plays a role in making our communities safer. We know that when justice-involved individuals are able to take advantage of opportunities to lead meaningful, productive lives, they are less likely to recommit criminal offenses. Please work within your organization to ensure that these changes are taking effect. Boards have been authorized to adopt any necessary rules to implement these changes. If you have any questions regarding these new requirements, feel free to contact Assistant Attorney General Mercedes Restucha-Klem at arestuchaklem@ncdoj.gov or 919-716-6783.

Sincerely –

Erik A. Hooks
Secretary of Public Safety

Josh Stein
Attorney General

¹ [State Reentry Council Collaborative 2018 Recommendations Final Report, pp. 29-30](#)

Freedom to Work/Occupational Licensing Board Reform

Session Law 2019-91 established the following, effective October 1, 2019:

- i. A requirement that all administrative agencies “shall consider a Certificate of Relief favorably in determining whether a conviction would result in a disqualification.” NCGS 15A-173.2(d).
- ii. A definition for “state agency licensing board,” including a non-exclusive list of those boards. NCGS 93B-1 (3).
- iii. *An annual report filed by each occupational licensing board and each state agency licensing board, no later than October 31 of each year to the Secretary of State, Attorney General, and Joint Legislative Administrative Procedure Oversight Committee on:*
 - “the number of applicants for a license, and of that number, the number granted a license.
 - the number of applicants with a conviction record and, of that number, the number granted a license, denied a license for any reason, and denied a license because of a conviction.” NCGS 93B-2(a) and (e).
- iv. Boards may *only* deny an applicant on the basis of a conviction if the board makes specific findings, based on a list of factors, that the applicant's history is directly related to the duties and responsibilities of the licensed job or the conviction is for a crime that is violent or sexual in nature. “. . . [N]o board may deny an applicant a license based on a determination that a conviction is for a crime of moral turpitude.” NCGS 93B-8.1(b) and (b1).
- v. If a board denies a license, it must 1) make specific written findings based on factors enumerated in the statute, explaining the reason for the denial and signed by the board’s presiding officer; 2) provide the written findings to the applicant within 60 days of the denial and include information on an appeal process; and 3) retain a signed copy of the denials for no less than five years. NCGS 93B-8.1(b2) and (b5).
- vi. All board licensure applications and websites shall include information on whether an applicant is required to consent to a criminal history record check, the factors the board considers when making a licensure determination, and the appeal process if a license is denied because of a criminal conviction. NCGS 93B-8.1(b3)
- vii. If a board uses a third-party provider for criminal history records, it must ensure that the applicant has access to the record or is otherwise delivered a copy of their record. NCGS 93B-8.1(b4).
- viii. If an applicant’s criminal record will or may prevent a board from issuing a license, the board shall notify the applicant and provide at least 30 days for the applicant to provide additional documentation for consideration. This documentation may include a correction of an inaccuracy in their criminal history or evidence of mitigation or rehabilitation. NCGS 93B-8.1(b4).
- ix. No board shall restrict an applicant from reapplying for a license for more than two years from the date of their most recent application. NCGS 93B-8.1(b5).
- x. All boards shall allow individuals to petition for a predetermination of whether their criminal history is likely to disqualify them from obtaining a license. Boards shall provide responses to these petitions within 45 days. NCGS 93B-8.1(b6).