

RÉSUMÉ DIGEST

ACT 486 (HB 639)

2022 Regular Session

Pressly

Prior law provided that an ex-offender may apply to any entity issuing licenses to engage in certain fields of work pursuant to state law for a license to engage in the particular field of work for which the entity issues licenses.

New law repeals prior law.

New law provides that an individual convicted of a crime may request at any time, including before obtaining any required education or training, that an entity issuing licenses to engage in certain fields of work pursuant to state law determine whether the individual's criminal conviction disqualifies the individual from obtaining a license issued or conferred by the licensing entity.

New law requires that an individual making such a request include any identifying information required by the licensing entity and details of the individual's criminal conviction, including any information relevant to the certain factors.

Prior law required the licensing entity to issue the license for which the applicant applied and is otherwise qualified to receive.

New law repeals prior law.

New law requires the licensing entity to inform the individual whether, based on the criminal record information submitted, the individual is disqualified from receiving or holding the license for which the individual inquired no later than 45 days after the licensing entity receives the request.

New law allows an individual to request a criminal background check at the time of a pre-application eligibility determination and requires the licensing entity to inform the individual of a disqualifying determination within 45 days.

New law provides that any determination made is binding upon a licensing authority unless, at the time a full application for a license is submitted, the applicant has been subsequently convicted of a crime, has pending criminal charges, or has previously undisclosed criminal convictions.

Prior law authorized a licensing entity to revoke the license issued if the license holder commits a new felony for which he is convicted or violates laws or rules governing the practice of the field of work for which the licensed was issued.

New law repeals prior law and instead provides that before an entity issuing licenses to engage in certain fields of work pursuant to state law makes a final determination that an individual's criminal conviction will result in the denial of a license, the licensing entity shall provide to the individual with written notice of all of the following:

- (1) The specific conviction that is the basis for the intended denial.
- (2) The reasons the conviction was determined to be directly related to the licensed activity, including findings for each of the factors provided in new law that the licensing authority deemed relevant to the determination.
- (3) The right to submit additional evidence relevant to each of the factors listed in new law within 60 days, which the licensing authority shall consider before issuing a final determination.

Prior law prohibited a license holder from receiving another license from any entity upon license revocation.

Prior law provided that a court shall notify the licensing entity if the license holder was charged with a new offense.

New law repeals prior law and instead provides that a final determination that a criminal conviction will prevent an individual from receiving a license shall be in writing and include both a notice of the right to appeal the determination and the earliest date the applicant may reapply for licensure.

New law requires each entity issuing licenses to engage in certain fields of work pursuant to state law to include in its application for a license, and publish on its public website, all of the following information:

- (1) Whether the criminal convictions of applicants may be used as a basis for denial.
- (2) If criminal history may be used as a basis for denial, the factors listed in new law that the licensing entity shall consider.
- (3) Notice of the right to petition for a determination pursuant to new law prior to meeting the general qualification for a license.

Prior law provided 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 as provided for in existing law.
- (2) A "crime of violence" as provided for in existing law.
- (3) A "sex offense" as provided for in existing law.

Prior law provided that a licensing entity is not required to issue a license to any person convicted of an offense involving fraud if the licensed field of work is one in which the licensee owes a fiduciary duty to a client.

Prior law provided that a licensing entity is not required to issue a license to an applicant whose conviction directly relates to the position of employment sought, or to the specific field for which the license is required, or profession for which the license is sought.

Prior law required a license holder who supervises children or individuals who lack mental capacity to have another licensee present in the room.

New law repeals prior law.

Prior law exempted 27 entities from the provisions of prior law.

New law repeals prior law.

New law exempts all of the following entities:

- (1) The State Boxing and Wrestling Commission.
- (2) The La. Gaming Control Board.
- (3) The La. Lottery Corporation.
- (4) The La. State Racing Commission.
- (5) The office of charitable gaming within the Dept. of Revenue.
- (6) The gaming enforcement division with the office of state police, Dept. of Public Safety and Corrections.

Existing law provides that a person shall not be disqualified, or held ineligible to practice or engage in any trade, occupation, or profession for which a license, permit, or certificate is required to be issued by the state of La. or any of its agencies or political subdivisions, solely because of a prior criminal record, except in cases in which a conviction directly relates to the position of employment sought, or to the specific occupation, trade, or profession for which the license, permit, or certificate is sought.

New law retains existing law.

New law provides that in determining whether a conviction directly relates to the position of employment sought, or to the specific occupation, trade, or profession for which the license, permit, or certificate is sought, a licensing entity shall consider all of the following:

- (1) The nature and seriousness of the offense.
- (2) The nature of the specific duties and responsibilities for which the license, permit, or certificate is required.
- (3) The amount of time that has passed since the conviction.
- (4) Facts relevant to the circumstances of the offense, including any aggravating or mitigating circumstances or social conditions surrounding the commission of the offense.
- (5) Evidence of rehabilitation or treatment undertaken by the person since the conviction.

Existing law requires that any complaints concerning violations of existing law be adjudicated in accordance with administrative and judicial review as provided for in existing law.

New law retains existing law.

Prior law made existing law inapplicable to 18 entities.

New law repeals prior law.

Prior law (R.S. 37:32) provided that notwithstanding any provision of law or rule adopted and promulgated by any state department, agency, board, commission, or authority to the contrary, an entity issuing licenses, except for those provided in existing law (R.S. 37:36), for persons to engage in certain fields of work pursuant to state law shall issue to an otherwise qualified applicant who has been convicted of an offense or offenses, except those described in existing law (R.S. 37:36), the license for which the applicant applied if the applicant meets all other requirements of the licensing qualifications, except those pertaining to former offenses.

New law repeals prior law.

Effective August 1, 2022.

(Amends R.S. 37:33-36 and 2950; Repeals R.S. 37:32)