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## DIGEST

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HB 639 Engrossed

2022 Regular Session

Pressly

**Abstract:** Provides relative to occupational licensing for workers with criminal histories.

Present law provides 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.

Proposed law repeals present law.

Proposed 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.

Proposed law provides that an individual making such a request shall include any identifying information required by the licensing entity and details of the individual's criminal conviction, including any information relevant to the factors provided in proposed law.

Present law provides that the licensing entity shall issue the license for which the applicant applied and is otherwise qualified to receive.

Proposed law repeals present law.

Proposed law provides that not later than 45 days after receiving a request, the licensing entity shall inform the individual whether, based on the criminal record information submitted, the individual is disqualified from receiving or holding the license which the individual inquired about.

Proposed law allows an individual to request a criminal background check at the time of a pre-application eligibility determination and requires the board to make a determination and notify the individual within 45 days.

Proposed law provides that a determination made pursuant to proposed law 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.

Present law provides that the licensing entity may revoke the license issued if the 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.

Proposed law repeals present 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 a criminal conviction will result in the denial of a license, the licensing entity shall provide written notice of:

- (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 proposed 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 proposed law within 60 days, which the licensing authority shall consider before issuing a final determination.

Present law provides that nothing in present law shall be implicitly interpreted to preclude an entity from exercising its existing discretion to issue a license to individuals not covered pursuant to present law.

Proposed law repeals present law.

Proposed law provides that each entity issuing licenses to engage in certain fields of work pursuant to state law licensing shall 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 proposed law that the licensing entity shall consider.
- (3) Notice of the right to petition for a determination pursuant to proposed law prior to meeting the general qualification for a license.

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

- (1) Any grade of homicide.
- (2) A "crime of violence".
- (3) A "sex offense".

Present law provides a licensing entity shall not be 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.

Present law provides that a licensing entity shall not be 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.

Proposed law repeals present law.

Proposed law provides that an entity issuing licenses to engage in certain field of work pursuant to state law shall keep record and compile a report of the number of licenses denied by the entity, including all reasons for such denial, when the denial is of an otherwise qualified applicant who has been convicted of an offense or offenses.

Present law provides that notwithstanding the exemption of licensing entities as provided in present law, any licensing entity issuing licenses in accordance with present law to people with criminal convictions shall keep record and compile a report of the number of licenses issued and denied by the entity, including all reasons for any such issuance or denial.

Proposed law repeals present law.

Present 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.

Proposed law retains present law.

Proposed 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.

Present law provides 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 present law, 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 present law, the license for which the applicant applied if the applicant meets all other requirements of the licensing qualifications, except those pertaining to form offenses.

Proposed law repeals present law.

(Amends R.S. 37:33, 34-36, and 2950; Repeals R.S. 37:32)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Require an individual making a request pursuant to proposed law to include in the request any identifying information required by the licensing entity.
2. Extend the time period by which the board is required to inform an individual of the board's decision from 30 days to 45 days.
3. Allow an individual to seek a criminal background check at the time of a pre-application eligibility determination.
4. Make technical changes.