

SB 517 A STAFF MEASURE SUMMARY**Carrier:** Sen. Dembrow**Senate Committee On Education****Action Date:** 04/04/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 4-3-0-0**Yeas:** 4 - Dembrow, Frederick, Gelser Blouin, President Wagner**Nays:** 3 - Anderson, Robinson, Weber**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** Ellen O'Brien, LPRO Analyst**Meeting Dates:** 3/28, 4/4**WHAT THE MEASURE DOES:**

Defines qualifying juvenile adjudications that can be considered by licensing bodies in denying, suspending, or revoking occupational or professional license. Adds prohibition on denying, suspending, or revoking license solely on basis of juvenile adjudication that does not substantially relate to specific duties and responsibilities required by license. Exempts Teacher Standards and Practices Commission, Office of Child Care, and Department of Human Services or Oregon Health Authority, in certain circumstances, from this prohibition. Replaces provision on consideration of intervening circumstances with new standards by which licensing body shall consider whether conviction or qualifying juvenile adjudication substantially relates to duties and responsibilities required by license. Prohibits licensing bodies from denying license because of arrest or charge not resulting in conviction or adjudication; because of nonqualifying juvenile adjudication; or because of pardoned, sealed or set-aside conviction. Allows person convicted of crime or subject to qualifying juvenile adjudication to apply to licensing body for determination of whether conviction or adjudication will prevent them from receiving license. Requires licensing bodies to provide applicants advance written notice if conviction or qualifying adjudication will result in denial of license, to include information on right to appeal in written notice and in final determination, and to include notice that conviction or adjudication may result in denial of license on application forms and website. Exempts criminal history obtained or used by licensing body from required disclosure. Establishes that provisions of act do not apply to denial, revocation, or suspension of license, certificate, permit, or registration required for program or service administered by Department of Human Services. Becomes operative July 1, 2024.

ISSUES DISCUSSED:

- Adopting best practices implemented in other states
- Information necessary to implement predetermination system
- Exceptions for individuals working with vulnerable populations

EFFECT OF AMENDMENT:

Modifies process of application to licensing body for determination of whether conviction or adjudication will prevent issuance of license.

BACKGROUND:

Many licensing boards regulate the use of criminal background checks in administrative rule, including the Board of Massage Therapists ([OAR 334-010-0018](#)), Construction Contractors Board ([OAR 812-030-0110](#)), Board of Licensed Social Workers ([OAR 877-022-0005](#)), Board of Chiropractic Examiners ([OAR 811-010-0084](#)), Real Estate Agency ([OAR 863-003-0050](#)), Board of Pharmacy ([OAR 855-010-0100](#)), Board of Medical Imaging ([OAR 337-010-0023](#)), and Oregon Board of Dentistry ([OAR 818-021-0026](#)).

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While these administrative rules do not explicitly discuss juvenile adjudications, they all require that the relevant board take into consideration the nature and seriousness of the crime or offense, the amount of time since the crime or offense, and the applicant's age at the time of the crime or offense. Certain boards, such as the Board of Chiropractic Examiners and the Board of Pharmacy, also explicitly note that criminal offender information is confidential and prohibit its distribution without a demonstrated and legitimate need.

Many of these rules allow the board to make a fitness determination that is conditional on the individual's acceptance of probation, conditions, limitations, or other restrictions. They may also permit the board to deny an application or revoke authorization if the applicant or licensee makes a false statement regarding their criminal history or refuses to complete a criminal background check. Many boards do not explicitly define fitness in rules for criminal background checks. The Construction Contractors Board does define fitness to engage in locksmithing as including the ability to refrain from violent, intimidating, or sexually predatory behavior and to refrain from dishonest or fraudulent conduct.

While Senate Bill 517 A prohibits licensing bodies from considering most juvenile adjudications in licensure decisions, juvenile adjudications that would constitute crimes under ORS 163.107, 163.115, 163.185, 163.375, 163.405, or 163.427 can still be considered under the bill. These statutes refer to first and second degree murder and first degree assault, rape, sodomy, and sexual abuse. Individuals subject to a juvenile adjudication for these crimes can still be denied licensure, so long as the licensing body considers the adjudication in accordance with other provisions of Senate Bill 517 A.

Senate Bill 517 A prohibits licensing boards, commissions, and agencies from denying, suspending, or revoking occupational or professional licenses on the sole basis of a past juvenile adjudication and establishes standards for licensing bodies' consideration of the circumstances of a criminal conviction or certain juvenile adjudications.