

Senate Bill 517

Sponsored by Senator DEMBROW (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits licensing board, commission or agency from denying, suspending or revoking occupational or professional license solely for reason that applicant or licensee was convicted of crime or subject to qualifying juvenile adjudication that does not substantially relate to specific duties and responsibilities for which license is required. Specifies criteria for determining whether crime substantially relates to specific duties and responsibilities for which license is required. Specifies additional restrictions on licensing board's, commission's or agency's power to deny occupational or professional license.

Permits person convicted of crime to petition licensing board, commission or agency at any time for determination as to whether conviction will prevent person from receiving occupational or professional license. Permits licensing board, commission or agency to charge reasonable fee for determination. Provides that final determination is binding upon licensing board, commission or agency unless, at time of petition, person has charges pending, failed to disclose previous crime or was convicted of crime after submitting petition. Requires notice to person before final determination that conviction will result in denial of occupational or professional license. Specifies additional rights of person and additional notice requirements.

A BILL FOR AN ACT

1
2 Relating to the effects on adjudicated persons of adjudications for criminal acts; creating new pro-
3 visions; and amending ORS 670.280.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 670.280 is amended to read:

6 670.280. (1) As used in this section:

7 (a) "License" includes a registration, certification or permit.

8 (b) "Licensee" includes a registrant or a holder of a certification or permit.

9 (c) **"Qualifying juvenile adjudication" means a finding that a person is within the juris-**
10 **isdiction of a juvenile court under ORS 419C.005 for committing an act that:**

11 **(A) If committed by an adult, would constitute a crime under ORS 163.107 or 163.115; or**

12 **(B) The person committed between the ages of 16 and 18 that would constitute a crime**
13 **under ORS 163.185, 163.375, 163.405 or 163.427.**

14 (2) Except as provided in ORS [*342.143 (3) or 342.175 (3)*] **329A.030, 342.143 (3), 342.175 (3) or**
15 **443.004 and notwithstanding any other provision of law to the contrary**, a licensing board,
16 commission or agency may not deny, suspend or revoke an occupational or professional license
17 solely for the reason that the applicant or licensee has been convicted of a crime[, *but it may con-*
18 *sider the relationship of the facts which support the conviction and all intervening circumstances to the*
19 *specific occupational or professional standards in determining the fitness of the person to receive or*
20 *hold the license*] **or subject to a juvenile adjudication that does not substantially relate to the**
21 **specific duties and responsibilities for which the license is required.** There is a rebuttable
22 presumption as to each individual applicant or licensee that an existing or prior conviction for
23 conduct that has been classified or reclassified as a Class E violation does not make an applicant
24 for an occupational or professional license or a licensee with an occupational or professional license

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 unfit to receive or hold the license.

2 **(3) In determining whether a crime for which an applicant or licensee was convicted or**
 3 **a qualifying juvenile adjudication to which the applicant or licensee was subject substantially**
 4 **relates to the specific duties and responsibilities for which a license is required, a licensing**
 5 **board, commission or agency shall consider, on a case-by-case basis:**

6 **(a) The nature and seriousness of the crime or the offense underlying the qualifying ju-**
 7 **venile adjudication;**

8 **(b) The amount of time that has passed since the conviction or qualifying juvenile adju-**
 9 **dications;**

10 **(c) The applicant's or licensee's age at the time the applicant or licensee committed the**
 11 **crime or the offense underlying the qualifying juvenile adjudication;**

12 **(d) Evidence that is relevant to show the circumstances of the crime or the offense**
 13 **underlying the qualifying juvenile adjudication, including any aggravating or mitigating cir-**
 14 **cumstances or social conditions within which the crime or the offense underlying the quali-**
 15 **ifying juvenile adjudication occurred;**

16 **(e) The nature of the specific duties and responsibilities for which the license is required;**

17 **(f) Evidence of the applicant's or licensee's rehabilitation or treatment since the crime**
 18 **or the offense underlying the qualifying juvenile adjudication occurred; and**

19 **(g) Any other consideration the licensing board, commission or agency deems relevant.**

20 **[(3)] (4)(a) Except as otherwise prohibited under this section or as provided in ORS**
 21 **329A.030, [342.143 (3) and] 342.175 (3) or 443.004, a licensing board, commission or agency may deny**
 22 **an occupational or professional license or impose discipline on a licensee based on conduct that is**
 23 **not undertaken directly in the course of the licensed activity, but that is substantially related to the**
 24 **fitness and ability of the applicant or licensee to engage in the activity for which the license is re-**
 25 **quired. In determining whether the conduct is substantially related to the fitness and ability of the**
 26 **applicant or licensee to engage in the activity for which the license is required, the licensing board,**
 27 **commission or agency shall consider the relationship of the facts with respect to the conduct and**
 28 **all intervening circumstances to the specific occupational or professional standards. There is a**
 29 **rebuttable presumption as to each individual [applicant or] licensee that an existing or prior con-**
 30 **viction for conduct that has been classified or reclassified as a Class E violation is not related to**
 31 **the fitness and ability of the [applicant or] licensee to engage in the activity for which the license**
 32 **is required.**

33 **(b) Paragraph (a) of this subsection does not apply in an application for an initial occu-**
 34 **pational or professional license to conduct that is directly related to an arrest, criminal**
 35 **charge or allegation, conviction or qualifying juvenile adjudication.**

36 **(5) Notwithstanding any other provision of law to the contrary, a licensing board, com-**
 37 **mission or agency may not deny an occupational or professional license because of:**

38 **(a) An arrest or charge that did not result in a criminal conviction or qualifying juvenile**
 39 **adjudication, unless charges are pending;**

40 **(b) An adjudication by a juvenile court that a youth is within the juvenile court's juris-**
 41 **isdiction, unless a law of this state explicitly authorizes the denial or the adjudication is a**
 42 **qualifying juvenile adjudication; or**

43 **(c) A conviction that was pardoned, sealed or set aside.**

44 **(6) A person who was convicted of a crime or subject to a qualifying juvenile adjudication**
 45 **may at any time petition a licensing board, commission or agency for a determination as to**

1 whether a criminal conviction or qualifying juvenile adjudication will prevent the person from
2 receiving an occupational or professional license. The petition may specifically address the
3 considerations set forth in subsection (3) of this section. The licensing board, commission
4 or agency may charge a reasonable fee to pay the costs of making the determination. A final
5 determination from a licensing board, commission or agency that a conviction or juvenile
6 adjudication will not prevent the person from obtaining an occupational or professional li-
7 cense binds the licensing board, commission or agency unless, at the time the person submits
8 a complete application, the person has allegations or charges pending in juvenile or criminal
9 court, has failed to disclose a previous criminal conviction or qualifying juvenile adjudication
10 or has been convicted of another crime or been subjected to a qualifying juvenile adjudication
11 during the period between the determination and the person's application. The licensing
12 board, commission or agency is not bound by, and may reconsider, a determination that a
13 conviction or juvenile adjudication will prevent the person from obtaining an occupational
14 or professional license if the person submits a petition for another determination or a com-
15 pleted application for an occupational or professional license.

16 (7) Before a licensing board, commission or agency makes a final determination that a
17 criminal conviction or qualifying juvenile adjudication will result in a denial of an occupa-
18 tional or professional license, the licensing board, commission or agency shall notify the
19 petitioner or applicant in writing of:

20 (a) The specific conviction or qualifying juvenile adjudication that is the basis for the
21 determination;

22 (b) The reasons the licensing board, commission or agency determined that the con-
23 viction or qualifying juvenile adjudication was substantially related to the specific duties and
24 responsibilities for which the license is required, including reasons that address each of the
25 considerations listed in subsection (3) of this section; and

26 (c) The petitioner's right to submit within 30 days after the date of the notice additional
27 evidence related to each of the considerations listed in subsection (3) of this section for the
28 licensing board's, commission's or agency's evaluation.

29 (8) A licensing board, commission or agency shall issue in writing any final determination
30 that a criminal conviction or qualifying juvenile adjudication will result in a denial of an oc-
31 cupational or professional license. The written determination must also include notice of any
32 right the petitioner or applicant has to appeal, notice of the earliest date on which the
33 petitioner or applicant can reapply for a determination under subsection (6) of this section
34 or apply for a license after a denial and notice that the licensing board, commission or
35 agency may consider evidence of rehabilitation in a new application. The written determi-
36 nation may also advise a petitioner or applicant of any action that may remedy a previous
37 disqualification.

38 (9) Every licensing board, commission and agency shall include in any application form
39 for a license, and post on the licensing board's, commission's or agency's website, a notice
40 that states:

41 (a) Whether a criminal conviction or qualifying juvenile adjudication is a possible basis
42 for denying the license;

43 (b) The considerations set forth in subsection (3) of this section; and

44 (c) That applicants have a right to petition for a determination under subsection (6) of
45 this section before submitting a completed application for a license.

