

2018 -- H 8335

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EQUAL OPPORTUNITY AND
AFFIRMATIVE ACTION

Introduced By: Representatives Slater, and Diaz

Date Introduced: June 20, 2018

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-5.1-14 of the General Laws in Chapter 28-5.1 entitled "Equal
2 Opportunity and Affirmative Action" is hereby amended to read as follows:

3 **28-5.1-14. State licensing and regulatory agencies.**

4 (a) State agencies shall not discriminate by considering race, color, religion, sex, sexual
5 orientation, gender, identity or expression, age, national origin, or disability in granting, denying,
6 or revoking a license or charter, nor shall any person, corporation, or business firm which is
7 licensed or chartered by the state unlawfully discriminate against or segregate any person on these
8 grounds. All businesses licensed or chartered by the state shall operate on a nondiscriminatory
9 basis, according to equal employment treatment and access to their services to all persons, except
10 unless otherwise exempted by the laws of the state. Any licensee, charter holder, or retail sales
11 permit holder who fails to comply with this policy is subject to any disciplinary action that is
12 consistent with the legal authority and rules and regulations of the appropriate licensing or
13 regulatory agency. State agencies which have the authority to grant, deny, or revoke licenses or
14 charters will cooperate with the state equal opportunity office to prevent any person, corporation,
15 or business firm from discriminating because of race, color, religion, sex, sexual orientation,
16 gender, identity or expression, age, national origin, or disability or from participating in any
17 practice which may have a disparate effect on any protected class within the population. The state
18 equal opportunity office shall monitor the equal employment opportunity activities and

1 affirmative action plans of all such organizations.

2 (b) Notwithstanding any other provision of the general or public laws to the contrary,
3 including, but not limited to, licenses, permits, certification, or registration authorized and
4 administered by the Rhode Island departments of health, labor and training, and business
5 regulation under titles 5, 27, and 23, no person shall be disqualified to practice, pursue or engage
6 in any occupation, trade, vocation, profession or business for which a license, permit, certificate
7 or registration is required to be issued by the state or any of its agencies, or any state licensing
8 board or commission, nor shall such license, permit, certificate, or registration be suspended or
9 revoked solely or in part because of a prior conviction of a crime or crimes, unless the crime or
10 crimes for which the person was convicted directly relate to the occupation for which the license
11 is sought.

12 (c) In determining if a conviction directly relates to an occupation for which the license is
13 sought, the licensing authority shall consider:

14 (1) The state's legitimate interest in equal access to employment for individuals who have
15 had past contact with the criminal justice system;

16 (2) The relationship of the crime or crimes to the purposes of regulating the occupation
17 for which the license is sought;

18 (3) The relationship of the crime or crimes to the ability, capacity, and fitness required to
19 perform the duties and discharge the responsibilities of the position of employment or occupation;
20 and

21 (4) Any information produced by the applicant concerning their fitness and rehabilitation.

22 (d) A person who has been convicted of a crime or crimes which directly relate to the
23 occupation for which a license is sought shall not be disqualified from the occupation if the
24 person can show competent evidence of sufficient rehabilitation and present fitness to perform the
25 duties of the occupation for which the license is sought. The licensing authority shall consider the
26 time elapsed since the conviction when determining sufficient rehabilitation, as well as any
27 evidence presented by the applicant regarding:

28 (1) Completion of a period of two (2) years after release from imprisonment, or two (2)
29 years after the sentencing date for a sentence of probation not accompanied by incarceration,
30 without a subsequent conviction or pending criminal charge;

31 (2) The nature and relevance of the crime or crimes for which the person was convicted;

32 (3) All circumstances relative to the crime or crimes, including mitigating circumstances
33 or social conditions surrounding the commission of the crime or crimes;

34 (4) The age of the person at the time the crime or crimes were committed; and

1 (5) All other competent evidence of rehabilitation and present fitness of the person,
2 including, but not limited to, letters of reference by persons who have been in contact with the
3 applicant since the applicant's release from any state or federal correctional institution.

4 (e) The following criminal records shall not be used in connection with any application
5 for a license, permit, certificate, or registration:

- 6 (1) Juvenile adjudications;
- 7 (2) Records of arrest not followed by a valid conviction;
- 8 (3) Convictions which have been expunged;
- 9 (4) Misdemeanor convictions for which no jail sentence can be imposed; or
- 10 (5) A conviction that is not related to the occupation for which a license is being sought,
11 as determined by subsection (c) of this section.

12 (f) If a licensing authority intends to deny, suspend, or revoke a license, permit, or
13 certificate solely or in part because of the individual's prior conviction of a crime, the licensing
14 authority shall notify the individual in writing of the following prior to the final decision:

- 15 (1) The specific conviction(s) that form the basis for the potential denial, suspension, or
16 revocation, and the rationale for deeming the conviction directly related to the occupation;
- 17 (2) A copy of the conviction history report, if any, upon which the licensing authority
18 relies;
- 19 (3) A statement that the applicant may provide evidence of mitigation or rehabilitation, as
20 described in subsection (d) of this section; and
- 21 (4) Instructions on how to respond to the potential denial, suspension, or revocation.

22 (g) After receiving the notice of potential denial, suspension, or revocation, the individual
23 shall have thirty (30) business days to respond by challenging the accuracy of the conviction
24 history and/or submitting evidence of mitigation or rehabilitation. The licensing authority shall
25 make its final decision based on an individualized assessment of the information described in
26 subsection (d) of this section.

27 (h) If a licensing authority denies, suspends, or revokes a license, permit, or certificate
28 solely or in part because of the applicant's directly-related conviction, the licensing authority shall
29 notify the applicant in writing of the following:

- 30 (1) The final decision, including the directly related conviction(s) that form the basis for
31 denial, suspension, or revocation and the rationale for occupation relatedness;
- 32 (2) The process for appealing the decision in accordance with chapter 35 of title 42; and
- 33 (3) The earliest date the person may reapply for a license, permit, or certificate, which
34 shall not be longer than two (2) years from the date of the final decision.

1 (i) Each state agency or licensing body shall issue a report to be made publicly available
2 on the agency or licensing body website one year after the effective date of this section and by
3 January 31 of each year thereafter, indicating the following:

4 (1) The number of initial applicants for every license, permit, or certificate under their
5 jurisdiction within the preceding calendar year, including the number of applicants granted
6 licenses, the number of applicants denied licenses for any reason, and, to the extent available, the
7 demographic breakdown of the applicants, including race, ethnicity, and gender; and

8 (2) The number of applicants denied solely, or in part, because of a criminal conviction.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EQUAL OPPORTUNITY AND
AFFIRMATIVE ACTION

1 This act would regulate the procedures for the granting or denial, suspension or
2 revocation of state licenses, permits, certificates or registrations required to practice, pursue, or
3 engage in an occupation, trade, vocation, profession or business solely, or in part, because of a
4 prior conviction of a crime or crimes unless directly related to the occupation for which the
5 license is sought.

6 This act would take effect upon passage.

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