

26 F.S.; revising legislative intent; revising state
 27 agency reporting requirements; amending ss. 310.071
 28 455.213, 494.0011, 517.1611, 559.554, 626.207,
 29 626.9954, and 648.34, F.S.; conforming provisions to
 30 changes made by the act; providing an effective date.
 31

32 Be It Enacted by the Legislature of the State of Florida:
 33

34 Section 1. Subsections (2) and (3) of section 112.011,
 35 Florida Statutes, are renumbered as subsections (3) and (4),
 36 respectively, subsection (1) of that section is amended, and a
 37 new subsection (2) is added to that section, to read:

38 112.011 Disqualification from licensing, permitting, or
 39 certification and public employment based on criminal
 40 conviction.-

41 (1) ~~(a)~~ Except as provided in s. 775.16, a person may not
 42 be disqualified from employment by the state, any of its
 43 agencies or political subdivisions, or any municipality solely
 44 because of a prior conviction for a crime. However, a person may
 45 be denied employment by the state, any of its agencies or
 46 political subdivisions, or any municipality by reason of the
 47 prior conviction for a crime if the crime was a felony or first-
 48 degree misdemeanor and directly related to the position of
 49 employment sought.

50 (2) (a) ~~(b)~~ Notwithstanding any other provision of law

51 ~~Except as provided in s. 775.16,~~ a person may be denied a
52 license, permit, or certification to pursue, practice, or engage
53 in an occupation, trade, vocation, profession, or business by
54 reason of the prior conviction for a crime only if all of the
55 following apply:

56 1. The crime was:

57 a. A forcible felony as defined in s. 776.08;

58 b. A felony or first-degree misdemeanor for which the
59 person was not incarcerated for the offense and was convicted
60 less than 3 years before a state agency considers his or her
61 application for a license, permit, or certification; or

62 c. A felony or first-degree misdemeanor for which the
63 person was incarcerated for the offense and his or her
64 incarceration ended less than 3 years before a state agency
65 considers his or her application for a license, permit, or
66 certification.

67 2. The conviction directly and specifically relates to the
68 duties and responsibilities of the occupation, trade, vocation,
69 profession, or business for which the license, permit, or
70 certification is sought.

71 3. Granting the license, permit, or certification would
72 pose a direct and substantial risk to public safety because
73 there is clear and convincing evidence that the person has not
74 been rehabilitated to safely perform the duties and
75 responsibilities of the ~~that is directly related to the~~

76 ~~standards determined by the regulatory authority to be necessary~~
77 ~~and reasonably related to the protection of the public health,~~
78 ~~safety, and welfare for the~~ specific occupation, trade,
79 vocation, profession, or business for which the license, permit,
80 or certificate is sought.

81 (b) ~~(e)~~ Notwithstanding any law to the contrary, a state
82 agency may not deny an application for a license, permit,
83 certificate, or employment based solely on the applicant's lack
84 of civil rights. However, this paragraph does not apply to
85 applications for a license to carry a concealed weapon or
86 firearm under chapter 790.

87 (c) In making a determination to whether a person has or
88 has not been rehabilitated as required under paragraph (a) in
89 order to grant a license, permit, or certification, a state
90 agency must consider the person's current circumstances and
91 mitigating factors, including all of the following factors:

92 1. The age of the person when he or she committed the
93 offense.

94 2. The amount of time that has elapsed since the person
95 committed the offense.

96 3. The circumstances surrounding and the nature of the
97 offense.

98 4. If the person completed his or her criminal sentence.

99 5. If the person received a certificate of rehabilitation
100 or good conduct.

101 6. If the person completed or is an active participant in
 102 a rehabilitative drug or alcohol program.

103 7. Any testimonials or recommendations, including progress
 104 reports from the person's probation or parole officer.

105 8. Any education and training the person has received.

106 9. The person's past employment history and his or her
 107 aspirations.

108 10. The person's family responsibilities.

109 11. If the occupation, trade, vocation, profession, or
 110 business for which the person seeks employment requires him or
 111 her to be bonded.

112 12. Any other evidence of rehabilitation or information
 113 that the person submits to the state agency.

114 (d) A state agency may only deny an application for a
 115 license, permit, or certification to pursue, practice, or engage
 116 in an occupation, trade, vocation, profession, or business based
 117 on a person's criminal record if the state agency does all of
 118 the following:

119 1. The state agency must notify the person of its
 120 intention to deny the application and request an informal
 121 meeting with the person, which the person may attend in person,
 122 by teleconference, or by video conference, regarding his or her
 123 application. Such notice must be provided in accordance with s.
 124 120.60(3) and inform the person that he or she may bring
 125 character witnesses to the informal meeting to offer verbal or

HB 1443

2023

126 written support of the person.

127 2. The state agency must hold the informal meeting within
128 60 days after receiving the person's completed application for a
129 license, permit, or certification. The state agency may not make
130 an adverse inference if the person does not attend an informal
131 meeting or does not bring witnesses to the meeting.

132 3. The state agency must provide written notification to
133 the person, in accordance with s. 120.60(3), of its decision
134 within 60 days after the informal meeting or receipt of a
135 completed application, whichever is later. If the state agency
136 denies or intends to deny the application for a license, permit,
137 or certification, the written notice must specify the clear and
138 convincing evidence the agency relied on to determine that the
139 person has not been rehabilitated to safely perform the duties
140 and responsibilities of the specific occupation, trade,
141 vocation, profession, or business for which the license, permit,
142 or certification is sought. Such notification must include the
143 procedures and applicable time limits for the person to seek an
144 administrative review of the agency's decision. The agency's
145 decision may only be administratively reviewed pursuant to ss.
146 120.569 and 120.57.

147 (e)1. Notwithstanding any law to the contrary, a person
148 with a criminal record may petition a state agency at any time,
149 including while in confinement, under supervision, or before
150 obtaining any required qualifications for a license, permit, or

151 certification, for a decision as to whether the person's
152 criminal record will disqualify the person from obtaining the
153 license, permit, or certification. The person must include in
154 the petition his or her criminal record or authorize the state
155 agency to obtain his or her criminal record. In reviewing the
156 petition, the state agency must determine if granting the
157 license, permit, or certification to such person would pose a
158 direct and substantial risk to public safety because there is
159 clear and convincing evidence that the person has not been
160 rehabilitated to safely perform the duties and responsibilities
161 of the specific occupation, trade, vocation, profession, or
162 business for which the license, permit, or certification is
163 sought. The state agency must follow the procedures in paragraph
164 (d) when reviewing and making a decision on the petition.

165 2. If a state agency determines under subparagraph 1. that
166 a person is not disqualified for a license, permit, or
167 certification, such decision is binding on the state agency in
168 any later ruling on the person's application for a license,
169 permit, or certification unless there is a material and adverse
170 change that directly and specifically relates to the person's
171 criminal record.

172 3. If a state agency determines under subparagraph 1. that
173 a person is disqualified for a license, permit, or
174 certification, the state agency must advise the person of any
175 actions the person may take to remedy the disqualification. The

176 person may submit a revised petition reflecting completion of
177 the remedial actions before the deadline set by the state agency
178 in its final judgment.

179 4. A person may not submit a new petition to the state
180 agency until at least 1 year after a final judgment on the
181 initial petition is rendered or the person obtains the required
182 qualifications for the license, permit, or certification,
183 whichever is earlier.

184 5. A state agency may charge a fee not to exceed \$50 per
185 petition for reviewing petitions under this paragraph.

186 (f) Notwithstanding any law to the contrary, a state
187 agency may not use vague terms such as good moral character,
188 moral turpitude, or character and fitness in its decision to
189 disqualify a person from receiving a license, permit, or
190 certification based on the person's criminal record.

191 Section 2. Section 112.0111, Florida Statutes, is amended
192 to read:

193 112.0111 Restrictions on the employment of ex-offenders;
194 legislative intent; state agency reporting requirements.—

195 (1) The Legislature declares that a goal of this state is
196 ~~to clearly identify the occupations from which ex-offenders are~~
197 ~~disqualified based on the nature of their offenses. The~~
198 ~~Legislature seeks to~~ make employment opportunities available to
199 ex-offenders in a manner that serves to preserve and protect the
200 health, safety, and welfare of the general public, yet

HB 1443

2023

201 encourages them to become productive members of society. To this
202 end, state agencies that exercise regulatory authority are ~~in~~
203 ~~the best position to identify all restrictions on employment~~
204 ~~imposed by the agencies or by boards that regulate professions~~
205 ~~and occupations and are obligated to protect the health, safety,~~
206 ~~and welfare of the general public by clearly setting forth those~~
207 ~~restrictions in~~ keeping with statutory standards and protections
208 determined by the agencies to be in the least restrictive
209 manner.

210 (2) Annually, each state agency, ~~including, but not~~
211 ~~limited to, those state agencies~~ responsible for issuing
212 licenses, permits, or certifications to pursue, practice, or
213 engage in an occupation, trade, vocation, profession, or
214 business must ~~professional and occupational regulatory boards,~~
215 ~~shall ensure the appropriate restrictions necessary to protect~~
216 ~~the overall health, safety, and welfare of the general public~~
217 ~~are in place, and by December 31, 2011, and every 4 years~~
218 ~~thereafter,~~ submit to the Governor, the President of the Senate,
219 and the Speaker of the House of Representatives, and post
220 publicly on its website, a report that includes:

221 (a) The total number of applicants with a criminal record
222 for a license, permit, or certification in the previous year
223 and, out of that number, the number of times the state agency
224 granted an application and denied, withheld, or refused to renew
225 an application because of the applicant's criminal history. The

226 report must also specify the offenses for which each decision to
227 deny, withhold, or refuse to renew an application for a license,
228 permit, or certification was based ~~A list of all agency or board~~
229 ~~statutes or rules that disqualify from employment or licensure~~
230 ~~persons who have been convicted of a crime and have completed~~
231 ~~any incarceration and restitution to which they have been~~
232 ~~sentenced for such crime.~~

233 (b) The total number of applicants with a criminal record
234 who petitioned the state agency under s. 112.011(2)(e) in the
235 previous year and, out of that number, the number of times the
236 state agency approved and denied a petition. The report must
237 also specify the offenses for which each decision to approve and
238 deny a petition was based ~~A determination of whether the~~
239 ~~disqualifying statutes or rules are readily available to~~
240 ~~prospective employers and licensees.~~

241 (c) Any other data the state agency deems relevant in
242 fulfilling its purpose under this section ~~The identification and~~
243 ~~evaluation of alternatives to the disqualifying statutes or~~
244 ~~rules which protect the health, safety, and welfare of the~~
245 ~~general public without impeding the gainful employment of ex-~~
246 ~~offenders.~~

247 Section 3. Subsection (4) of section 310.071, Florida
248 Statutes, is amended to read:

249 310.071 Deputy pilot certification.—

250 (4) The board must follow the requirements in s.

251 112.011(2) before ~~Notwithstanding s. 112.011 or any other~~
 252 ~~provision of law relating to the restoration of civil rights,~~ an
 253 applicant ~~may~~ shall be disqualified from applying for ~~or~~ and
 254 ~~shall be denied a deputy pilot certificate if the applicant,~~
 255 ~~regardless of adjudication, has ever been found guilty of, or~~
 256 ~~pled guilty or nolo contendere to, a charge which was:~~

257 ~~(a) A felony or first degree misdemeanor which directly~~
 258 ~~related to the navigation or operation of a vessel; or~~

259 ~~(b) A felony involving the sale of or trafficking in, or~~
 260 ~~conspiracy to sell or traffic in, a controlled substance as~~
 261 ~~defined by chapter 893, or an offense under the laws of any~~
 262 ~~state or country which, if committed in this state, would~~
 263 ~~constitute the felony of selling or trafficking in, or~~
 264 ~~conspiracy to sell or traffic in, such controlled substance.~~

265 Section 4. Paragraphs (c), (d), and (e) of subsection (3)
 266 of section 455.213, Florida Statutes, are redesignated as
 267 paragraphs (b), (c), and (d), respectively, and paragraphs (a)
 268 and (b) of subsection (3) and subsection (11) of that section
 269 are amended, to read:

270 455.213 General licensing provisions.—

271 (3)~~(a)~~ Notwithstanding any other law, the applicable board
 272 shall use the process in s. 112.011(2) ~~this subsection~~ for
 273 review of an applicant's criminal record to determine his or her
 274 eligibility for a license, permit, or certification. ~~licensure~~
 275 ~~as:~~

276 1. ~~A barber under chapter 476;~~
 277 2. ~~A cosmetologist or cosmetology specialist under chapter~~
 278 ~~477;~~
 279 3. ~~Any of the following construction professions under~~
 280 ~~chapter 489:~~
 281 a. ~~Air-conditioning contractor;~~
 282 b. ~~Electrical contractor;~~
 283 c. ~~Mechanical contractor;~~
 284 d. ~~Plumbing contractor;~~
 285 e. ~~Pollutant storage systems contractor;~~
 286 f. ~~Roofing contractor;~~
 287 g. ~~Sheet metal contractor;~~
 288 h. ~~Solar contractor;~~
 289 i. ~~Swimming pool and spa contractor;~~
 290 j. ~~Underground utility and excavation contractor; or~~
 291 k. ~~Other specialty contractors; or~~
 292 4. ~~Any other profession for which the department issues a~~
 293 ~~license, provided the profession is offered to inmates in any~~
 294 ~~correctional institution or correctional facility as vocational~~
 295 ~~training or through an industry certification program.~~
 296 (b)1. ~~A conviction, or any other adjudication, for a crime~~
 297 ~~more than 5 years before the date the application is received by~~
 298 ~~the applicable board may not be grounds for denial of a license~~
 299 ~~specified in paragraph (a). For purposes of this paragraph, the~~
 300 ~~term "conviction" means a determination of guilt that is the~~

301 ~~result of a plea or trial, regardless of whether adjudication is~~
 302 ~~withheld. This paragraph does not limit the applicable board~~
 303 ~~from considering an applicant's criminal history that includes a~~
 304 ~~crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but~~
 305 ~~only if such criminal history has been found to relate to the~~
 306 ~~practice of the applicable profession.~~

307 ~~2. The applicable board may consider the criminal history~~
 308 ~~of an applicant for licensure under subparagraph (a)3. if such~~
 309 ~~criminal history has been found to relate to good moral~~
 310 ~~character.~~

311 (11) For any profession requiring fingerprints as part of
 312 the registration, certification, or licensure process or for any
 313 profession requiring a criminal history record check ~~to~~
 314 ~~determine good moral character~~, the fingerprints of the
 315 applicant must accompany all applications for registration,
 316 certification, or licensure. The fingerprints must ~~shall~~ be
 317 forwarded to the Division of Criminal Justice Information
 318 Systems within the Department of Law Enforcement for processing
 319 to determine whether the applicant has a criminal history
 320 record. The fingerprints must ~~shall~~ also be forwarded to the
 321 Federal Bureau of Investigation to determine whether the
 322 applicant has a criminal history record. The information
 323 obtained by the processing of the fingerprints by the Department
 324 of Law Enforcement and the Federal Bureau of Investigation must
 325 ~~shall~~ be sent to the department to determine whether the

326 applicant is statutorily qualified for registration,
 327 certification, or licensure.

328 Section 5. Paragraph (c) of subsection (2) of section
 329 494.0011, Florida Statutes, is amended to read:

330 494.0011 Powers and duties of the commission and office.—

331 (2) The commission may adopt rules to administer parts I,
 332 II, and III of this chapter, including rules:

333 (c) Establishing time periods during which a loan
 334 originator, mortgage broker, or mortgage lender license
 335 applicant under part II or part III is barred from licensure due
 336 to prior criminal convictions of, or guilty or nolo contendere
 337 pleas by, any of the applicant's control persons, regardless of
 338 adjudication. The requirements of s. 112.011(2) apply

339 ~~1. The rules must provide:~~

340 ~~a. Permanent bars for felonies involving fraud,~~
 341 ~~dishonesty, breach of trust, or money laundering;~~

342 ~~b. A 15-year disqualifying period for felonies involving~~
 343 ~~moral turpitude;~~

344 ~~c. A 7-year disqualifying period for all other felonies;~~
 345 ~~and~~

346 ~~d. A 5-year disqualifying period for misdemeanors~~
 347 ~~involving fraud, dishonesty, or any other act of moral~~
 348 ~~turpitude.~~

349 ~~2. The rules may provide for an additional waiting period~~
 350 ~~due to dates of imprisonment or community supervision, the~~

351 ~~commitment of multiple crimes, and other factors reasonably~~
352 ~~related to the applicant's criminal history.~~

353 ~~3. The rules may provide for mitigating factors for crimes~~
354 ~~identified in sub-subparagraph 1.b. However, the mitigation may~~
355 ~~not result in a period of disqualification less than 7 years.~~
356 ~~The rule may not mitigate the disqualifying periods in sub-~~
357 ~~subparagraphs 1.a., 1.c., and 1.d.~~

358 ~~4. An applicant is not eligible for licensure until the~~
359 ~~expiration of the disqualifying period set by rule.~~

360 ~~5. Section 112.011 is not applicable to eligibility for~~
361 ~~licensure under this part.~~

362 Section 6. Subsection (2) of section 517.1611, Florida
363 Statutes, is amended to read:

364 517.1611 Guidelines.—

365 (2) The commission shall adopt by rule disqualifying
366 periods pursuant to which an applicant will be disqualified from
367 eligibility for registration based upon criminal convictions,
368 pleas of nolo contendere, or pleas of guilt, regardless of
369 whether adjudication was withheld, by the applicant; any
370 partner, member, officer, or director of the applicant or any
371 person having a similar status or performing similar functions;
372 or any person directly or indirectly controlling the applicant.
373 The requirements of s. 112.011(2) apply

374 ~~(a) The disqualifying periods shall be 15 years for a~~
375 ~~felony and 5 years for a misdemeanor.~~

HB 1443

2023

376 ~~(b) The disqualifying periods shall be related to crimes~~
377 ~~involving registration as a dealer, investment adviser, issuer~~
378 ~~of securities, or associated person or the application for such~~
379 ~~registration or involving moral turpitude or fraudulent or~~
380 ~~dishonest dealing.~~

381 ~~(c) The rules may also address mitigating factors, an~~
382 ~~additional waiting period based upon dates of imprisonment or~~
383 ~~community supervision, an additional waiting period based upon~~
384 ~~commitment of multiple crimes, and other factors reasonably~~
385 ~~related to the consideration of an applicant's criminal history.~~

386 ~~(d) An applicant is not eligible for registration until~~
387 ~~the expiration of the disqualifying period set by rule. Section~~
388 ~~112.011 does not apply to the registration provisions under this~~
389 ~~chapter. Nothing in this section changes or amends the grounds~~
390 ~~for denial under s. 517.161.~~

391 Section 7. Paragraph (b) of subsection (2) of section
392 559.554, Florida Statutes, is amended to read:

393 559.554 Powers and duties of the commission and office.—

394 (2) The commission may adopt rules to administer this
395 part, including rules:

396 (b) Establishing time periods during which a consumer
397 collection agency is barred from registration due to prior
398 criminal convictions of, or guilty or nolo contendere pleas by,
399 an applicant's control persons, regardless of adjudication. The
400 requirements of s. 112.011(2) apply

401 ~~1. The rules must provide:~~

402 ~~a. A 15-year disqualifying period for felonies involving~~

403 ~~fraud, dishonesty, breach of trust, money laundering, or other~~

404 ~~acts of moral turpitude.~~

405 ~~b. A 7-year disqualifying period for all other felonies.~~

406 ~~c. A 5-year disqualifying period for misdemeanors~~

407 ~~involving fraud, dishonesty, or other acts of moral turpitude.~~

408 ~~2. The rules must provide for an additional waiting period~~

409 ~~due to dates of imprisonment or community supervision, the~~

410 ~~commitment of multiple crimes, and other factors reasonably~~

411 ~~related to the applicant's criminal history.~~

412 ~~3. The rules must provide for mitigating factors for~~

413 ~~crimes identified in sub-subparagraphs 1.a., 1.b., and 1.c.~~

414 ~~4. An applicant is not eligible for registration until~~

415 ~~expiration of the disqualifying period set by rule.~~

416 ~~5. Section 112.011 does not apply to eligibility for~~

417 ~~registration under this part.~~

418 Section 8. Subsection (9) of section 626.207, Florida

419 Statutes, is amended to read:

420 626.207 Disqualification of applicants and licensees;

421 penalties against licensees; rulemaking authority.—

422 (9) Section 112.011(2) applies ~~112.011 does not apply~~ to

423 any applicants for licensure under the Florida Insurance Code,

424 including, but not limited to, agents, agencies, adjusters,

425 adjusting firms, or customer representatives.

HB 1443

2023

426 Section 9. Subsection (8) of section 626.9954, Florida
427 Statutes, is amended to read:

428 626.9954 Disqualification from registration.—

429 (8) Section 112.011(2) applies ~~112.011 does not apply~~ to
430 an applicant for registration as a navigator.

431 Section 10. Subsection (7) of section 648.34, Florida
432 Statutes, is amended to read:

433 648.34 Bail bond agents; qualifications.—

434 (7) Section 112.011(2) applies ~~The provisions of s.~~
435 ~~112.011 do not apply~~ to bail bond agents or to applicants for
436 licensure as bail bond agents.

437 Section 11. This act shall take effect July 1, 2023.