

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 334

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Brandes

SUBJECT: Professional Regulation

DATE: April 5, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 334 limits the grounds for denial of licensure relating to an applicant's criminal history in specific professions regulated by the Department of Business and Professional Regulation (DBPR) and the Department of Health (DOH), and implements related application and review processes. The processes apply to applications for licensure by certified nursing assistants, regulated by the DOH, and to barbers, cosmetologists, cosmetology specialists (i.e., hair braiders, hair wrappers, and body wrappers), and specified construction professionals, all regulated by the DBPR.

The process limits the period during which an agency may consider criminal history as an impairment to licensure to 3 years from the date of the criminal conviction and permits a person to apply for specific licenses while under criminal confinement or supervision. However, the DOH may still deny a certified nursing assistant applicant who was involved in a crime involving certain violent felonies, crimes against children, sexual offenses, or financial crimes that may currently disqualify an applicant from a certified nursing assistant license, regardless of the duration of time since his or her arrest.

The bill does not exempt any specific crimes from licensure process for professions regulated by the DBPR.

By October 1, 2019, the DBPR and the DOH must post on their websites a list of crimes that do not relate to the practice of the profession or the ability to practice the profession and therefore do not constitute grounds for denial of licensure. By that date, each agency must also begin to compile a list of crimes that it has not used as a basis for denial of licensure for the last 2 years, when an applicant reported that crime.

The bill takes effect October 1, 2019.

II. Present Situation:

Licensing and Criminal Background

Section 112.011, F.S., outlines general guidelines for considering criminal convictions during licensure determinations. Generally, a person may be denied a professional license based on his or her prior conviction of a crime if the crime was a felony or first-degree misdemeanor that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific profession for which the license is sought.¹ Notwithstanding any law to the contrary, a state agency may not deny an application for a license based solely on the applicant's lack of civil rights.²

Department of Business and Professional Regulation

Licensure, Generally

Section 20.165, F.S., establishes the organizational structure of the DBPR, as 12 divisions tasked with the regulation of several professions and businesses.³ Fifteen boards and programs exist within the Division of Professions,⁴ two boards exist within the Division of Real Estate,⁵ and one board exists in the Division of Certified Public Accounting.⁶

¹ Section 112.011(1)(b), F.S. *See also, e.g., State ex rel. Sbordy v. Rowlett*, 138 Fla. 330, 190 So. 59, 63 (1939), holding that “the preservation of the public health is one of the duties of sovereignty and in a conflict between the right of a citizen to follow a profession and the right of a sovereignty to guard the health and welfare, it logically follows that the rights of the citizen to pursue his profession must yield to the power of the State to prescribe such restrictions and regulations as shall fully protect the people from ignorance, incapacity, deception, and fraud.”

² Section 112.011(1)(c), F.S.

³ *See s. 20.165, F.S.*, creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

⁴ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers' Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors' Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

⁵ *See s. 20.165(4)(b), F.S.* Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

⁶ *See s. 20.165(4)(c), F.S.*, which establishes the Board of Accountancy, created under ch. 473, F.S.

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.⁷ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.⁸

In Fiscal Year 2017-2018, there were 434,574 licensees in the Division of Professions,⁹ including:

- Barbers (22,119 active and 227 inactive);
- Cosmetologists (247,960 active and 1,568 inactive);
- Construction industry contractors (75,089 active and 15,404 inactive); and
- Electrical contractors (12,631 active and 1,368 inactive).

Denial of Licensure

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.¹⁰ The DBPR may regulate professions "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."¹¹ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.¹²

However, "neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention," or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.¹³

The DBPR or a pertinent regulatory board may deny an application for licensure based on the grounds set forth in s. 455.227(1), F.S., or in the profession's practice act.¹⁴ Specifically, the DBPR or regulatory board may deny a licensure application for any person who was:

convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which

⁷ Section 455.219(1), F.S.

⁸ Section 455.01(4) and (5), F.S.

⁹ See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2017-2018*, 19, <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited April 5, 2019).

¹⁰ See ss. 455.01(6) and 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

¹¹ Section 455.201(2), F.S.

¹² Section 455.201(2), F.S.

¹³ Section 455.201(4)(b), F.S.

¹⁴ Section 455.227(2), F.S.

relates to the practice of, or the ability to practice, a licensee's profession.¹⁵ (Emphasis added.)

Section 455.227, F.S., does not specifically require the DBPR or the applicable regulatory board to consider the passage of time since the disqualifying criminal offense before denying or granting a license.

Barbers

Barbers are regulated under ch. 476, F.S., by the Barber's Board within the DBPR. To be licensed as a barber, a person must be at least 16 years of age, satisfactorily complete a licensure examination, and pay the required application fee. In order to be eligible to sit for the licensure examination, a person must have held a license to practice barbering in another state for at least one year or have received a minimum of 1,200 hours of training.¹⁶

Chapter 476, F.S., does not provide a basis for denial of a license application based on a person's criminal background. However, a person may be denied a license application as a barber for any violation of s. 455.227, F.S., which authorizes the denial of a license on the basis of a criminal background related to the practice of, or the ability to practice, a licensee's profession.¹⁷

Cosmetologists

The Board of Cosmetology within the DBPR licenses and regulates cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists,¹⁸ body wrappers, and related salons pursuant to ch. 477, F.S. The Board of Cosmetology processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

Individuals are prohibited from providing manicures or pedicures in Florida without first being registered as a nail specialist, full specialist, or cosmetologist.¹⁹ Painting nails with fingernail polish falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails. Therefore, individuals who add polish to fingernails and toenails for compensation must register as a specialist or obtain a cosmetologist license.

A nail specialist may complete manicures and pedicures. A full specialist may complete manicures, pedicures, and facials. To qualify for a specialist license, the applicant must be at least 16 years old or have a high school diploma, obtain a certificate of completion from an approved specialty education program, and submit an application for registration with the DBPR with the registration fee.²⁰

¹⁵ Section 455.227(1)(c), F.S.

¹⁶ See s. 476.114, F.S.

¹⁷ See s. 455.227(1)(c), F.S.

¹⁸ A specialist is any person who holds a specialty registration in one or more of the specialties registered under ch. 477, F.S. See, s. 477.013, F.S.

¹⁹ Section 477.014, F.S.

²⁰ Section 477.0201, F.S.

A “cosmetologist” practices cosmetology²¹ in Florida under the authority of ch. 477, F.S.²² To qualify for licensure as a cosmetologist, an applicant must be at least 16 years old, have a high school diploma, have submitted an application with the applicable fee and examination fee, and have either a license in another state or country for at least 1 year, or have received 1,200 hours of training including completion of an education at an approved cosmetology school or program. The applicant must also pass all parts of the licensure examination.²³

The Board of Cosmetology may deny a cosmetology license or specialty registration application based on a person’s criminal background. The board may deny a license or application for any violation of s. 455.227, F.S., which authorizes the denial of a license on the basis of a criminal background related to the practice of, or the ability to practice, a licensee’s profession.²⁴

Construction Contracting Professionals

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.²⁵ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.

A specialty contractor’s scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.²⁶

The Electrical Contractors’ Licensing Board (ECLB) within the DBPR is responsible for licensing and regulating electrical contractors in this state under part II of ch. 489, F.S.²⁷

²¹ “Cosmetology” is “the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.” Section 477.013(4), F.S.

²² Section 477.013(3), F.S.

²³ Section 477.019(2), F.S.

²⁴ See s 477.029(1)(h), F.S.

²⁵ See s. 489.107, F.S.

²⁶ For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays. See Fla. Admin. Code R. 61G4-15.032 (2016).

²⁷ Section 489.507, F.S.

Construction contractors under part I of ch. 489, F.S., and electrical contractors under part II of ch. 489, F.S., must satisfactorily complete a licensure examination before being licensed.²⁸

The CILB and the ECLB may deny a license application for any person who it finds guilty of any of the grounds for discipline set forth in s. 455.227(1), F.S., or set forth in the profession's practice act.²⁹ Specifically, the CILB may deny a license application for any person having been convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of, or the ability to practice, a licensee's profession.³⁰

The CILB and the ECLB may also deny a registration application under s. 455.227, F.S., which authorizes the denial of a license on the basis of a criminal background related to the practice of, or the ability to practice, a profession.³¹

Master septic tank contractors and septic tank contractors are regulated by the DBPR under part III of ch. 489, F.S. Septic tank contractors must pass an examination and register with the DBPR before engaging in the occupation.³² A master septic tank contractor must have at least 3 years' experience as a registered septic tank contractor or a plumbing contractor certified under part I of ch. 489, F.S., who has provided septic tank contracting services for at least 3 years.

To be eligible for registration by the DBPR, master septic tank contractors and septic tank contractors must be of good moral character. In considering good moral character, the DBPR may consider any matter that has a substantial connection between the good moral character of the applicant and the professional responsibilities of a registered contractor, including, but not limited to:

the applicant being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting...³³ (Emphasis added.)

The DBPR may also deny a registration application under s. 455.227, F.S., which authorizes the denial of a license on the basis of a criminal background related to the practice of, or the ability to practice, a profession.³⁴

Chapter 489, F.S., does not specifically require the DBPR, the CILB, or the ECLB to consider the passage of time since the disqualifying criminal offense before denying or granting a license or registration.

²⁸ See ss. 489.113 and 489.516, F.S., respectively.

²⁹ Section 455.227(2), F.S.

³⁰ Sections 489.129(1)(b) and 489.553(1)(d), F.S., providing the disciplinary grounds for construction contractors and electrical contractors, respectively.

³¹ See s 477.029(1)(h), F.S.

³² Sections 489.552 and 489.553, F.S.

³³ Section 489.553(4)(a), F.S.

³⁴ See s 477.029(1)(h), F.S.

Department of Health

The DOH or an applicable board may deny the licensure of any applicant who has been “convicted of or pled guilty or nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession regulated by this state.”³⁵

The DOH must also deny an application if an applicant’s felony criminal history relating to social welfare fraud, other fraudulent practices, or controlled substances includes:

- A felony of the first or second degree, which occurred less than 15 years before the date of application;
- A felony of the third degree, which occurred less than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a), F.S, relating to possession of a controlled substance; or
- A felony of the third degree under s. 893.13(6)(a), which occurred less than 5 years before the date of application.³⁶

Additionally, the DOH must deny an application if the applicant was convicted of a felony under federal law relating to controlled substance violations under 21 U.S.C. ss. 801-970, or health insurance for the aged or disabled or medical assistance grants under 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for a conviction or plea ended more than 15 years before the date of the application.

Certified Nursing Assistants

The Board of Nursing within the DOH is responsible for licensing and regulating the certified nursing assistants (CNA) under part II of ch. 464, F.S.³⁷ In Fiscal Year 2017-2018, there were 147,500 active CNAs.³⁸

To be certified as a CNA in Florida, a person must have a high school diploma or its equivalent, or be at least 18 years of age and pass a nursing assistant competency examination. Alternatively, a person may be certified in Florida if he or she is certified by another state and has not committed abuse, neglect, or exploitation in that state.³⁹

The qualifications for certification as a CNA do not specifically refer to a person’s criminal background, but an applicant must pass a level two background screening pursuant to either s. 400.215, or s. 408.809, F.S., which apply to nursing home and related healthcare facility personnel and employees of medical facilities, respectively. The background screening must be

³⁵ Sections 456.024(3)(c), F.S.

³⁶ See s. 456.0635(a), F.S.

³⁷ See s. 489.107, F.S.

³⁸ See Florida Department of Health, Division of Medical Quality Assurance, *Annual Report & Long-range Plan, Fiscal Year 2017-2018*, 16, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1718.pdf> (last visited April 5, 2019).

³⁹ Section 464.203, F.S.

completed every 5 years following licensure, employment, or entering into a contract in a capacity that requires background screening.⁴⁰

A level two background check is performed pursuant to s. 435.04, F.S., to ensure that an applicant has not been arrested for; is not awaiting final disposition of; has not been found guilty of, regardless of adjudication; has not entered a plea of nolo contendere or guilty to; or has not been adjudicated delinquent and the record has not been sealed or expunged for, any of the 52 prohibited offenses.⁴¹ The prohibited offenses include violent crimes, property crimes, and sexual offenses.⁴²

In addition to the crimes specified under s. 435.04, F.S., a CNA may not have a felony record for specific felony financial crimes, including Medicaid fraud and forgery.⁴³

A level two background screening includes fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE) and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies. Once the background screening is complete and the FDLE receives the information from the FBI, the criminal history information is transmitted to DOH. The DOH then determines if the screening contains any disqualifying information for employment.

If a person is disqualified from employment due to failure of the required background screening, the DOH may grant an exemption from disqualification for:

- Felonies for which at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency.⁴⁴

However, if the disqualifying crime committed while the applicant was a delinquent would be considered a felony if committed by an adult, and the record has not been sealed or expunged, the DOH may not grant an exemption until at least 3 years have elapsed since the applicant's completion or lawful release from confinement, supervision, or nonmonetary condition imposed by the court for the offense.⁴⁵

⁴⁰ Section 408.809(2), F.S.

⁴¹ Section 435.04(2), F.S.

⁴² See 435.04(2), F.S.

⁴³ See 408.809(4), F.S.

⁴⁴ Section 435.07(1)(a), F.S.

⁴⁵ *Id.*

The DOH may not grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03 or s. 435.04, F.S., solely by reason of any pardon, executive clemency, or restoration of civil rights.⁴⁶

An exemption may not be granted to anyone who is a sexual predator, career offender, or sexual offender (unless not required to register).⁴⁷ The agency may not grant an exemption from disqualification to persons with a criminal history that includes other violent felonies, crimes against children, and sex-related crimes, such as felony domestic violence, luring or enticing a child, sexual battery, child pornography, and child abuse.⁴⁸ An applicant who seeks an exemption must first pay any court-ordered amount for any fee, fine, fund, lien, civil judgment, application, costs of prosecution, trust, or restitution as part of the judgment and sentence for the disqualifying crime.⁴⁹

Department of Corrections

The Department of Corrections (DOC) indicates that it has limited funding for the provision of career and technical education.⁵⁰ The DOC employs full-time equivalent vocational teachers and contracts with community colleges and technical schools to provide instruction for vocational certificates and industry-recognized certifications. State inmates currently have limited opportunities to participate in the following programs that require state certification or licensure:

- Commercial Driving, Class A and B General Knowledge Test: \$75.00 each (Department of Highway Safety and Motor Vehicles);
- Wastewater and Water Distribution System Operator application and exam: \$20.00 (Department of Environmental Protection);
- Cosmetology application and exam: \$63.50 (Department of Business and Professional Regulation);
- Barber application and exam: \$250.00 (Department of Business and Professional Regulation); and
- Certified Nursing Assistant: \$140.00 (Department of Health).⁵¹

III. Effect of Proposed Changes:

The bill limits the grounds for denial of licensure relating to an applicant's criminal history in specific professions regulated by the DBPR and the DOH and implements related application and review processes.

The license application review process in the bill applies to the following professions and occupations:

⁴⁶ See s. 435.07(4)(a), F.S.

⁴⁷ See s. 435.07(4)(b), F.S.

⁴⁸ See s. 435.07(4)(c), F.S.

⁴⁹ Section 435.07(1)(b), F.S.

⁵⁰ The funding includes the legislative appropriation and supplemental funds provided through the Department of Education, Carl D. Perkins grant. Florida Department of Corrections, *SB 334 Agency Analysis* (Oct. 1, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).

⁵¹ *Id.*

- Certified Nursing Assistants;
- Barbers;
- Cosmetologists and cosmetology specialists (i.e., hair braiders, hair wrappers, and body wrappers); and
- Construction Professionals, which include:
 - Air-conditioning contractors;
 - Commercial pool/spa contractors;
 - Electrical contractors;
 - Mechanical contractors;
 - Plumbing contractors;
 - Pollutant storage systems contractor;
 - Residential swimming pool and spa contractors;
 - Roofing contractors;
 - Septic tank contractors;
 - Sheet metal contractors;
 - Solar contractors;
 - Swimming pool and spa servicing contractors
 - Underground utility and excavation contractors; and
 - Specialty contractors whose scope of work and responsibility is limited to a particular phase of construction, e.g. drywall, glazing, swimming pool excavation, etc.

Section 1 amends s. 455.213, F.S., dealing with the general licensing provisions of the DBPR.

Section 2 amends s. 464.203, F.S., dealing with the certification requirements for certified nursing assistants under the DOH.

Together, sections 1 and 2 of the bill limit the duration for which an applicant's criminal history may be used by the DOH and the DBPR as a basis for denial of his or her application for licensure to three years from the date of the applicant's criminal conviction.⁵²

The bill does not change license qualifications in current law for any of the affected professions, including any disqualifications in current law based on the applicant's criminal history or moral character.

For the professions licensed by the DBPR, the bill does not exempt any specific crimes from the licensure process specified in the bill. However, the DOH may still deny an application for certification as a CNA based on felony financial crimes, including Medicaid fraud and forgery, violent felonies, crimes against children, sexual offenses, and other crimes as outlined in ss. 408.809, 435.04, 435.07(4), and 456.0635, F.S. Additionally, the DOH must continue to consider the passage of time since the applicant's conviction, as specified in these sections of law.

Additionally, the bill permits a person to apply for specific licenses while under criminal confinement (incarceration) or supervision. In order to facilitate this part, the bill:

⁵² Section 921.0021(2), F.S., defines "conviction" under the "Criminal Punishment Code" in ch. 921, F.S., to mean "a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld."

- Permits applicants who are incarcerated or under supervision to appear by teleconference or video conference at a meeting of a board or the agency for a hearing concerning the person's license application;
- Requires the Department of Corrections to cooperate and coordinate with the board or department, as applicable, to facilitate the applicant's appearance at the hearing in person, by teleconference, or by video conference, as appropriate; and
- Authorizes the licensing agency to stay its issuance of an approved license until the agency has verified the applicant's lawful release from incarceration with the Department of Corrections.

Sections 1 and 2 also require the DOH and DBPR to compile and post on their websites a list of crimes that do not constitute grounds for denial of a license application and that do not relate to the practice of the profession or the ability to practice the profession. Additionally, the agencies must begin to compile a separate list of crimes that, when reported by an applicant for a license, were not used for as a basis for denial in the past 2 years. The list must identify the crime reported and the date of conviction, plea, or sentencing. The agencies must maintain the list on their websites and update it at least quarterly.

Section 3 makes conforming and technical changes.

Section 4 provides that the bill takes effect October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Business and Professional Regulation and the Department of Health indicated that implementation costs would be minimal.

The Department of Corrections indicated that teleconference equipment should be available for use at each institution. If an inmate is needed to appear in person, transportation costs would be minimal.⁵³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.213, 464.203, and 400.211.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Innovation, Industry, and Technology on March 12, 2019:**

The CS requires Certified Nursing Assistant license applicants to qualify under s. 408.809, F.S., which requires pre-employment, level two background screening for specified persons, including employees of medical facilities.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁵³ Florida Department of Corrections, *SB 334 Agency Analysis*, (Oct. 1, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).