

1   A bill to be entitled  
2           An act relating to disqualification from licensing,  
3           permitting, or certification based on criminal  
4           conviction; amending s. 112.011, F.S.; providing that  
5           an application for a license, permit, or certification  
6           may only be denied based on the applicant's criminal  
7           record under certain circumstances; requiring a state  
8           agency to consider certain factors in determining  
9           whether an applicant for a license, permit, or  
10          certification has been rehabilitated; requiring a  
11          state agency to follow certain procedures if it is  
12          denying an application for a license, permit, or  
13          certification based on the applicant's criminal  
14          record; authorizing a person with a criminal record to  
15          petition a state agency at any time for a  
16          determination as to whether the person is disqualified  
17          from obtaining a license, permit, or certification;  
18          providing requirements for a state agency in making  
19          such determination; providing that certain decisions  
20          by a state agency are binding; requiring a state  
21          agency to advise applicants how to remedy  
22          disqualifications; authorizing a person to submit a  
23          new petition after a specified time; authorizing a  
24          state agency to charge a fee; prohibiting the use of  
25          certain terms by a state agency; amending s. 112.0111,

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

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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



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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

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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.~~

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.

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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.