BOARDS AND COMMISSIONS

Board of Social Work

(New Administrative Regulation)

201 KAR 23:027. Preliminary determination of licensure eligibility for individuals with criminal convictions.

RELATES TO: KRS 335.070, 335.075, 335.080, 335.090, 335.100, 335.150(1)(a), 335B.020, 335B.030, 335B.032

STATUTORY AUTHORITY: KRS 335.070(4), KRS 335B.032

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335B.032 requires each licensing authority that considers a criminal background check as part of its application process to establish a process by which an individual who has been convicted of a crime may obtain a determination about whether the crime will disqualify the individual from licensure, to publish its application policy and procedures for individuals with a criminal background, and to promulgate administrative regulations related to that process by January 1, 2027. KRS 335.075 requires the board to conduct a national and state criminal background investigation of every applicant for an initial license. KRS 335B.020 and 335B.030 establish the standards and procedures the board shall follow when considering a prior conviction. KRS 335.070(4) authorizes the board to promulgate administrative regulations to carry out KRS 335.010 to 335.160 and 335.990. This administrative regulation establishes the procedures for requesting and issuing a preliminary determination of licensure eligibility and the board's public notice requirements for individuals with criminal convictions.

Section 1. Definitions.

(1) Board" is defined by KRS 335.020(1).

(2) "Conviction" is defined by 201 KAR 23:025, Section 1(3).

(3) "Directly relates" means that a conviction relates to the practice of social work, as determined by the board after considering the items established in KRS 335B.020(2).

(4) "Preliminary determination" means a written determination by the board, issued in accordance with this administrative regulation, of whether an individual's conviction disqualifies the individual from licensure as a social worker.

(5) "Requestor" means an individual who submits a request for a preliminary determination.

Section 2. Eligibility.

(1) An individual who has been convicted of a crime may request a preliminary determination before or while pursuing the education or training required for licensure pursuant to KRS 335.080, 335.090, or 335.100.

(2) An individual with an application for licensure pending under 201 KAR 23:025 shall not request a preliminary determination. The individual's conviction shall be reviewed as part of the application.

Section 3. Request.

(1) A requestor shall submit to the board:

(a) A completed Request for Preliminary Determination of Licensure Eligibility form;

(b) A non-refundable fee of twenty-five (25) dollars;

(c) A disclosure of each conviction, including the offense, its classification as a misdemeanor or felony, the date of conviction, the court and jurisdiction, the sentence imposed, and the date of completion of the sentence and any supervision;

(d) A certified copy of the court record of the charge, final disposition, and judgment or sentencing order for each conviction; and

(e) A signed personal statement describing the circumstances of each offense, the requestor's age at the time of each offense, and the requestor's rehabilitation.

(2) A requestor may submit any evidence the board shall consider under KRS 335B.020(2), including evidence of:

(a) Compliance with any conditions of community supervision, parole, or mandatory supervision;

(b) The requestor's conduct and work activity since the offense;

(c) Treatment undertaken by the requestor; and

(d) Testimonials or personal reference statements.

(3) Within ten (10) working days of receipt of a request, the board shall notify the requestor of any missing item. The requestor shall submit any missing item, and any additional information the board requests under 2026 Ky. Acts ch. 72, sec. 2(2)(a), within thirty (30) days of the notice. A request that is not completed within that time shall be closed, and the requestor may submit a new request.

(4) The board may verify a requestor's disclosed criminal history by obtaining a Kentucky criminal history record from the Administrative Office of the Courts or the Department of Kentucky State Police. The requestor shall pay any fee charged for the record.

Section 4. Opportunity to Be Heard.

(1) Before issuing a preliminary determination, the board shall afford the requestor an opportunity to be heard in person, by telephone, or by video, in the format selected by the requestor.

(2) The board shall notify the requestor of the date, time, and format of the hearing at least fourteen (14) days in advance.

(3) The requestor may waive the opportunity to be heard in writing.

(4) A hearing under this section shall be an informal opportunity to present testimony and evidence and shall not be an administrative hearing conducted in accordance with KRS Chapter 13B.

Section 5. Evaluation.

(1) The board shall evaluate the requestor's testimony and the evidence submitted and determine whether each conviction directly relates to the practice of social work.

(2) A requestor shall not be disqualified solely because of a prior conviction unless the conviction directly relates to the practice of social work.

(3) The board shall issue a preliminary determination within ninety (90) days after the request is complete.

Section 6. Preliminary Determination.

(1) The board shall issue each preliminary determination in writing.

(2) If the board determines that the requestor is not disqualified, the preliminary determination shall state the limitations established in Section 7 of this administrative regulation.

(3) If the board determines that the requestor is disqualified, the board shall provide the requestor with written findings of fact that include:

(a) The grounds and reasons for the disqualification, citing facts as they relate to the items established in KRS 335B.020(2);

(b) Notice that the requestor has the right to a hearing conducted in accordance with KRS Chapter 13B, if a written request for hearing is made within ten (10) working days after service of the notice;

(c) The earliest date the requestor may submit a new request or apply for licensure; and

(d) Notice that new or previously submitted evidence of rehabilitation may be considered upon a new request or application.

(4) A party aggrieved by a final order issued after a hearing under subsection (3)(b) of this section may appeal as provided by KRS 335B.030(1)(b).

Section 7. Binding Effect.

(1) A preliminary determination that a requestor is not disqualified shall be binding on the board unless, at the time the individual submits a full application for licensure, the individual has subsequently been convicted of a crime or has any previously undisclosed conviction.

(2) An applicant who received a preliminary determination shall disclose it on the application submitted pursuant to 201 KAR 23:025. The board shall compare the results of the criminal background investigation required by KRS 335.075 with the convictions disclosed in the request.

(3) If the applicant has been convicted of a crime since the preliminary determination, or has a conviction not disclosed in the request, the board shall review all of the applicant's convictions in accordance with KRS 335B.020 and 335B.030.

(4) A preliminary determination shall address criminal history only and shall not waive any other requirement for licensure, including the education, examination, supervised experience, and criminal background investigation requirements of KRS 335.075, 335.080, 335.090, 335.100, and 201 KAR 23:025.

Section 8. Public Notice.

(1) The board shall display on its website its application policy and procedures for individuals with a criminal background. The policy shall state that:

(a) The application process may include a background check by the Department of Kentucky State Police or the Administrative Office of the Courts and, for an applicant described in KRS 335.075(1), shall require the applicant to submit to fingerprinting;

(b) A criminal conviction may disqualify an applicant from obtaining a license if the conviction directly relates to the practice of social work;

(c) The applicant shall submit the information described in KRS 335B.020(2) within thirty (30) days of the board's request; and

(d) An individual may request a preliminary determination in accordance with this administrative regulation.

(2) The board shall provide the notice established in subsection (1) of this section to each applicant for licensure and each requestor within fourteen (14) days of receipt of the application or request.

(3) The board shall provide the notice established in subsection (1) of this section to each educational institution in Kentucky that offers a social work program accredited by, or in candidacy with, the Council on Social Work Education:

(a) At least annually; and

(b) Within thirty (30) days of any change to the policy.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference: "Request for Preliminary Determination of Licensure Eligibility," 10/2026.

(2) This material may be inspected, copied, or obtained, subject to copyright law, from the Kentucky Board of Social Work, 125 Holmes Street, Suite 310, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at https://bsw.ky.gov. Each form incorporated by reference is also available on the board's Web site at https://bsw.ky.gov.

HANK CECIL, LCSW, Board Chair

APPROVED BY AGENCY: October 14, 2026

FILED WITH LRC: October 15, 2026 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2026, at 1:00 p.m., at the Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made prior to the end of the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort Kentucky 40601, phone (502) 564-2350, email marc.kelly@ky.gov.