

1 AN ACT relating to employment.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 335B.010 TO 335B.070 IS
4 CREATED TO READ AS FOLLOWS:

5 *The General Assembly finds a compelling public interest in removing barriers to*
6 *employment opportunities and occupational licenses for citizens of the Commonwealth*
7 *who have been convicted of a crime. Employers can increase their hiring prospects by*
8 *offering positions to this historically untapped pool of workers who have taken*
9 *rehabilitative steps in preparation for participation in the workforce, and reenter*
10 *society as productive citizens, rather than being defined by a past crime.*

11 ➔SECTION 2. A NEW SECTION OF KRS 335B.010 TO 335B.070 IS
12 CREATED TO READ AS FOLLOWS:

13 *(1) Any hiring or licensing authority that considers a criminal background check as*
14 *part of its application process shall establish and implement a process by which*
15 *an individual who has been convicted of a crime can obtain a determination*
16 *about whether the crime will disqualify the individual from a position of public*
17 *employment or an occupation for which a professional license is required.*

18 *(2) When a criminal background check is required by a hiring or licensing authority*
19 *under subsection (1) of this section, an individual may submit his or her*
20 *application and have that application considered by the authority before pursuing*
21 *any training or specialized education that is required for the position of public*
22 *employment or an occupation for which a professional license is required. A*
23 *hiring or licensing authority shall:*

24 *(a) Request that the individual submit the information listed in subsection (2) of*
25 *Section 3 of this Act to the hiring or licensing authority within a reasonable*
26 *time as determined by the authority;*

27 *(b) Afford the individual an opportunity for an in-person, telephone, or video*

1 hearing; and

2 (c) Evaluate the applicant's testimony and the evidence of items listed in
3 subsection (2) of Section 3 of this Act, and determine if the conviction
4 relates to the position of public employment sought or the occupation for
5 which a license is sought prior to taking any action on the application.

6 (3) A determination made in accordance with this section that a person is not
7 disqualified from a position of public employment or an occupation for which a
8 professional license is required due to criminal history shall be binding upon a
9 hiring or licensing authority unless, at the time a full application for a position of
10 public employment or an occupation for which a license is required is submitted,
11 the applicant has subsequently been convicted of a crime or has previously
12 undisclosed convictions of a crime.

13 (4) A hiring or licensing authority shall display on its website its application policy
14 and procedures pertaining to an individual with a criminal background. The
15 application instructions shall include the following:

16 (a) That the application process may include a background check by the
17 Department of Kentucky State Police or the Administrative Office of the
18 Courts, and may require the applicant to submit to fingerprinting;

19 (b) That a criminal conviction may disqualify an applicant from obtaining a
20 position of public employment or an occupational license; and

21 (c) That the applicant shall submit the information described in subsection (2)
22 of Section 3 of this Act to the hiring or licensing authority within a
23 reasonable time determined by the authority.

24 (5) A hiring or licensing authority shall provide the public notice as described in
25 subsection (4) of this section:

26 (a) To all applicants within fourteen (14) days of application or selection for an
27 interview; and

1 **(b) To educational institutions that provide education and training in the areas**
2 **of study requiring an occupational license to practice for prospective**
3 **applicants.**

4 **(6) A hiring or licensing authority shall:**

5 **(a) No later than January 1, 2027:**

6 **1. Formulate policies and procedures as necessary to carry out the**
7 **provisions of this section; and**

8 **2. Promulgate administrative regulations in accordance with KRS**
9 **Chapter 13A related to this section; and**

10 **(b) Provide the Legislative Research Commission for referral to the Interim**
11 **Joint Committee on Licensing, Occupations, and Administrative**
12 **Regulations a report by November 1, 2027, to confirm that an application**
13 **process as described in this section has been established and is being**
14 **utilized.**

15 ➔Section 3. KRS 335B.020 is amended to read as follows:

16 (1) No person shall be disqualified from public employment, nor shall a person be
17 disqualified from pursuing, practicing, or engaging in any occupation for which a
18 license is required solely because of a prior conviction of a crime, unless the crime
19 for which convicted directly relates to the position of employment sought or the
20 occupation for which the license is sought.

21 (2) In determining if a conviction directly relates to the position of public employment
22 sought or the occupation for which the license is sought, the hiring or licensing
23 authority shall consider **items submitted by the applicant, which may include:**

24 (a) **The individual's criminal history, including but not limited to:**

25 **1. The nature and seriousness of the crime;**

26 **2. The individual's age when the offense was committed;**

27 **3. The length of time since the offense was committed;**

- 1 4. The relationship of the crime to the public employment position
2 sought or the occupation for which the license is sought; and
3 5. The relationship of the crime to the ability, capacity, and fitness
4 required to perform the duties and discharge the responsibilities of the
5 public employment position or licensed occupation;
6 (b) Any bonding requirements for the occupation for which the license is
7 sought; and
8 (c) Any evidence of rehabilitation submitted by the applicant, including but not
9 limited to evidence related to the person's compliance with any conditions of
10 community supervision, parole, or mandatory supervision, the conduct and
11 work activity of the person, treatment undertaken by the person, and
12 testimonials or personal reference statements;

13 ~~The nature and seriousness of the crime for which the individual was convicted and~~
14 ~~the passage of time since its commission;~~

15 ~~(b) The relationship of the crime to the purposes of regulating the position of~~
16 ~~public employment sought or the occupation for which the license is sought;~~

17 ~~(c) The relationship of the crime to the ability, capacity, and fitness required to~~
18 ~~perform the duties and discharge the responsibilities of the position of~~
19 ~~employment or occupation].~~

20 ➔ Section 4. KRS 335B.030 is amended to read as follows:

- 21 (1) (a) If, after evaluating the evidence as described in subsection (2) of Section of
22 3 of this Act, a hiring or licensing authority denies an individual a position of
23 public employment or a license solely because of the individual's prior
24 conviction of a crime, the hiring or licensing authority shall provide the
25 individual with written findings of fact, including but not limited to ~~notify~~
26 ~~the individual in writing of the following~~:

- 27 1. The grounds and reasons for the denial or disqualification, citing facts

1 as they relate to specific items of consideration in subsection (2) of
2 Section 3 of this Act;

3 2. That the individual has the right to a hearing conducted in accordance
4 with KRS Chapter 13B, if written request for hearing is made within ten
5 (10) working days after service of notice;

6 3. The earliest date the person may reapply for a position of public
7 employment or a license; and

8 4. That new or previously submitted evidence of rehabilitation may be
9 considered upon reapplication.

10 (b) Any party aggrieved by a final order issued by a hiring or licensing authority
11 after a hearing under this subsection may appeal to Franklin Circuit Court or
12 the Circuit Court of the county in which the appealing party resides in
13 accordance with KRS Chapter 13B.

14 (2) (a) ~~[Except as provided in paragraph (b) of this subsection,]~~ A hiring or licensing
15 authority shall not disqualify an individual from a position of public
16 employment or from pursuing, practicing, or engaging in any occupation for
17 which a license is required solely because of the individual's prior conviction
18 of a crime, unless the authority provides the individual with a written notice
19 that the authority has determined that the prior conviction may disqualify the
20 person, demonstrates the connection between the prior conviction and the
21 position of public employment or license being sought, and affords the
22 individual an opportunity to be personally heard before the board prior to the
23 board making a decision on whether to disqualify the individual. If the
24 position of public employment or license is denied after the person was heard,
25 the hiring or licensing authority shall notify the individual in writing of the
26 following:

27 1. The grounds and reasons for the denial or disqualification;

- 1 2. That the individual has the right to a hearing conducted in accordance
2 with KRS Chapter 13B, if a written request for hearing is made within
3 ten (10) working days after service of notice;
- 4 3. The earliest date the person may reapply for a position of public
5 employment or license; and
- 6 4. That evidence of rehabilitation may be considered upon reapplication.
- 7 (b) ~~{If an individual's prior conviction was for a Class A felony, a Class B felony,~~
8 ~~or any felony offense that would qualify the individual as a registrant pursuant~~
9 ~~to KRS 17.500, there shall be a rebuttable presumption that a connection~~
10 ~~exists between the prior conviction and the license being sought.~~
- 11 ~~(c) —~~Any party aggrieved by a final order issued by a hiring or licensing authority
12 after a hearing under this subsection may appeal to Franklin Circuit Court or
13 the Circuit Court of the county in which the appealing party resides in
14 accordance with KRS Chapter 13B.
- 15 (3) ~~{Except as provided in subsection (2)(b) of this section, }~~In any administrative
16 hearing or civil litigation authorized under this section, the hiring or licensing
17 authority shall carry the burden of proof on the question of whether the prior
18 conviction directly relates to the position of public employment sought or the
19 occupation for which the license is sought.
- 20 ➔SECTION 5. A NEW SECTION OF KRS 335B.010 TO 335B.070 IS
21 CREATED TO READ AS FOLLOWS:
- 22 Section 2 of this Act shall not apply to:
- 23 (1) Cities;
- 24 (2) Counties;
- 25 (3) Urban-county governments;
- 26 (4) Charter county governments;
- 27 (5) Consolidated local governments;

- 1 (6) Unified local governments;
2 (7) Any political subdivisions of any entity listed in subsections (1) to (6) of this
3 section; or
4 (8) The Department of Financial Institutions within the Public Protection Cabinet,
5 as described in KRS 12.020, when acting as a licensing authority.