

SENATE BILL NO. 1227

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Morrissey)

A BILL to amend and reenact §§ 54.1-114 and 54.1-204 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; effect of criminal convictions on licensure; data to be included in biennial report.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-114 and 54.1-204 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-114. Biennial report.**

A. The Board of Bar Examiners, the Department of Professional and Occupational Regulation and the Department of Health Professions shall submit biennial reports to the Governor and General Assembly on or before November 1 of each even-numbered year. The biennial report shall contain at a minimum the following information for the Board of Bar Examiners and for each board within the two Departments: (i) a summary of the board's fiscal affairs, (ii) a description of the board's activities, (iii) statistical information regarding the administrative hearings and decisions of the board, (iv) a general summary of all complaints received against licensees and the procedures used to resolve the complaints, and (v) a description of any action taken by the board designed to increase public awareness of board operations and to facilitate public participation. The Department of Health Professions shall include, in those portions of its report relating to the Board of Medicine, a compilation of the data required by § 54.1-2910.1.

B. The Department of Professional and Occupational Regulation's biennial report shall include, with respect to all licenses, certificates, and registrations made:

1. The total number of applicants and, of that number, the number of those granted a license, the number of those denied a license, and the number of applications for licensure pending or uncompleted;

26 2. The number of times each board acted to grant an application or to deny, diminish, suspend,  
27 revoke, withhold, or refuse to renew or otherwise limit the requested license, certificate, or registration  
28 because of an applicant's directly-related criminal conviction;

29 3. The number of guidance documents filed by each board under subsection F of § 54.1-204; and

30 4. Any other data, as determined by the Department to be (i) relevant and helpful to inform the  
31 Governor and General Assembly of the impact of criminal convictions on professional or occupational  
32 licensure or (ii) necessary to accurately account for all totals requested.

33 **§ 54.1-204. Prior convictions not to abridge rights.**

34 A. A person shall not be refused a license, certificate, or registration to practice, pursue, or engage  
35 in any ~~regulated~~ occupation or profession regulated by the Department of Professional and Occupational  
36 Regulation solely because of a prior criminal conviction, unless the criminal conviction directly relates to  
37 the occupation or profession for which the license, certificate or registration is sought. However, the  
38 regulatory board shall have the authority to refuse a license, certificate or registration if, based upon all  
39 the information available, including the applicant's record of prior convictions, it finds that the applicant  
40 is unfit or unsuited to engage in such occupation or profession unless the regulatory board completes an  
41 individualized assessment of the individual's criminal record and current circumstances and determines  
42 that the criminal conviction directly relates to the occupation or profession for which the license,  
43 certificate, or registration is sought, as assessed pursuant to subsection C.

44 B. An excluded record shall not be the basis for the refusal of a license, certificate, or registration  
45 by the board. For purposes of this section, "excluded record" means any conviction that has been sealed,  
46 annulled, dismissed, expunged, or pardoned, or a conviction for a nonsexual misdemeanor offense if three  
47 years have lapsed since the conviction and the applicant has not been convicted of any new offense during  
48 that three-year period.

49 A regulatory board or department review of a person's criminal history record shall be limited to  
50 any conviction, finding of guilt, or plea of guilty open to disclosure pursuant to § 19.2-389.3, regardless  
51 of whether the sentence is imposed, suspended, or executed. Any plea of nolo contendere shall be

52 considered a conviction for the purposes of this section. No regulatory board shall consider information  
53 in a criminal history record related solely to an arrest or charge, unless charges are currently pending.

54 ~~B.~~C. In determining whether a nonexcluded criminal conviction directly relates to an occupation  
55 or profession, the regulatory board shall consider the following criteria:

56 1. The nature and seriousness of the crime;  
57 2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;  
58 3. The extent to which the occupation or profession might ~~offer an opportunity~~ present a substantial  
59 risk of the person to engage in further criminal activity of the same type as that in which the person had  
60 been involved;

61 4. The relationship of the crime to the ability, and ~~capacity or fitness~~ required to perform the duties  
62 and discharge the responsibilities of the occupation or profession in a competent manner;

63 5. The extent and nature of the person's past criminal ~~activity~~ convictions;

64 6. The age of the person at the time of the commission of the crime;

65 7. The amount of time that has elapsed since the person's ~~last involvement in the commission of a~~  
66 ~~crime~~ most recent conviction;

67 8. The applicant's reasonable efforts to fulfill the requirements of the sentence, whether the setting  
68 of that sentence be probation, parole, or a term of incarceration;

69 9. The conduct and work activity of the person prior to and following the criminal ~~activity~~  
70 conviction; and

71 ~~9. Evidence~~ 10. Any other evidence of the person's rehabilitation or rehabilitative effort while  
72 incarcerated or following release that may mitigate the relationship of past criminal conduct to the practice  
73 of the occupation or profession, which may include the applicant's participation in drug or alcohol abuse  
74 treatment programs or rehabilitative programming or testimony or recommendations from correctional,  
75 probation, or parole officers; community or faith leaders; counselors or peer recovery specialists;  
76 employers; or other individuals as deemed relevant by the board.

77 ~~C.~~D. A regulatory board or department may require any applicant for ~~registration, licensure or,~~  
78 certification, or registration to submit to fingerprinting and to provide personal descriptive information to

79 be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to  
 80 the Federal Bureau of Investigation for the purpose of obtaining criminal history record information  
 81 regarding such applicant. Such applicant shall pay the cost of the fingerprinting or a criminal records  
 82 check or both.

83 The regulatory board or department may enter into a contract to obtain the fingerprints and  
 84 descriptive information as required for submission to the Central Criminal Records Exchange in a manner  
 85 and format approved by the Central Criminal Records Exchange.

86 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that  
 87 no record exists, shall make a report to the regulatory board or department or ~~their~~ its designee, who must  
 88 belong to a governmental entity. If an applicant is denied a registration, license or certificate because of  
 89 the information appearing in his criminal history record, the regulatory board or department shall notify  
 90 the applicant in writing of the specific offense or offenses that information obtained from the Central  
 91 Criminal Records Exchange contributed to such denial, how the criminal history directly relates to the  
 92 occupation pursuant to subsection C, and how the regulatory board or department weighed the  
 93 rehabilitation factors in subsection C when making its decision. The information shall not be disseminated  
 94 except as provided for in this section.

95 ~~D-E.~~ A regulatory board or department shall consider the criminal information as contained in the  
 96 applicant's state or national criminal history in lieu of the applicant providing certified copies of such court  
 97 records in determining whether a criminal conviction directly relates to an occupation or profession ~~or if~~  
 98 ~~an applicant is unfit or unsuited to engage in an occupation or profession.~~ The regulatory board or  
 99 department may request additional information from the applicant in making such determination.

100 F. All regulatory boards shall develop and publish on their website guidance documents that inform  
 101 prospective applicants of the types of criminal offenses that may impede licensure.

102 **2. That the provisions of the first enactment of this act amending § 54.1-114 of the Code of Virginia**  
 103 **shall become effective on July 1, 2026.**

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