HOUSE DOCKET, NO. 378 FILED ON: 1/8/2025

HOUSE . . . . . No. 420

The Commonwealth of Massachusetts

PRESENTED BY:

David Henry Argosky LeBoeuf and Steven Ultrino

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to increasing professional licensure opportunities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
David Henry Argosky LeBoeuf	*17th Worcester*	*1/8/2025*
Steven Ultrino	*33rd Middlesex*	*2/11/2025*

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By Representatives LeBoeuf of Worcester and Ultrino of Malden, a petition (accompanied by bill, House, No. 420) of David Henry Argosky LeBoeuf and Steven Ultrino for legislation to further regulate professional and occupational licensing. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4602* OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to increasing professional licensure opportunities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out section 172N, and inserting in place thereof the following 2 sections:-

Section 172N. (a) For the purposes of this section and section 172N 1/2, “licensing authority” shall include any agency, examining board, credentialing board or other office or commission, including boards supervised by the commissioner of occupational licensure, with the authority to impose occupational fees or licensing requirements on a profession.

(b) A licensing authority shall provide individualized consideration of an applicant's circumstances as described in subsections (d) and (e) to deny, diminish, suspend, revoke, withhold or otherwise limit a professional or occupational license.

(c) Notwithstanding any general or special law to the contrary, a licensing authority shall not consider, nor require an applicant to disclose:

(1) a deferred adjudication, including but not limited to a continuance without a finding, participation in a diversion program or an arrest not followed by a conviction;

(2) a conviction for which no sentence of incarceration may be imposed;

(3) a conviction that has been sealed, annulled, dismissed, vacated, set aside, expunged or pardoned;

(4) a juvenile adjudication;

(5) a non-violent misdemeanor;

(6) a conviction that occurred more than 3 years prior to the date of the licensing authority's consideration or where the applicant's incarceration ended more than 3 years before the date of the licensing authority's consideration, except for a conviction of:

(i) a crime punishable by imprisonment for a term exceeding 2 and a half years, or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult, that (A) has as an element involving the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (B) is burglary, extortion, arson or kidnapping; (C) involves the use of

explosives; or (D) resulted in death, bodily injury, or serious bodily injury with malice aforethought;

(ii) a felony related to a sex offense, a sex offense involving a child or a sexually violent offense as defined in section 178C; or

(iii) a felony related to criminal fraud pursuant to section 1 of chapter 267 or embezzlement pursuant to chapter 266.

(d) A licensing authority may deny, diminish, suspend, revoke, withhold or otherwise limit a professional or occupational license only if the licensing authority determines, by clear and convincing evidence, that:

(1) First, an applicant's non-excluded criminal record directly relates to the duties and responsibilities of the profession or occupation.

(2) Second, if an applicant's non-excluded criminal record is directly related to the duties and responsibilities of the profession or occupation, the licensing authority must then determine if the interest of the licensing authority in protecting the public, an individual or property from harm outweighs the applicant's right to hold the professional or occupational license.

(3) Third, if the licensing authority determines that the interest in protecting the public, an individual or property from harm outweighs the applicant's right to hold the professional or occupational license, then the licensing authority shall determine if the applicant has failed to be rehabilitated.

(e) If the applicant's criminal record is directly related to the performance, duties, responsibilities, practices or functions of the profession, the licensing authority shall consider the

following factors, in a light most favorable to the applicant, to demonstrate evidence of rehabilitation:

(1) the age of the applicant at the time of the offense;

(2) the length of time since the offense;

(3) the completion of a criminal sentence, not including financial obligations;

(4) a certificate of rehabilitation, restoration of rights or good conduct;

(5) completion of, or active participation in, rehabilitative drug or alcohol treatment or similar programs;

(6) testimonials and recommendations, including, but not limited to, progress reports from the applicant's probation or parole officer;

(7) education and training;

(8) employment history;

(9) the applicant's responsibilities, including civic and community engagement or family contributions;

(10) whether the applicant will be bonded in the occupation; and

(11) other evidence of rehabilitation or information that the applicant submitted to the licensing authority, including mitigating circumstances.

(f)(1) The licensing authority shall issue and send a decision to the applicant on the petition not later than 60 days after the licensing authority receives the petition or, if a hearing is

held, not later than 90 days after the licensing authority receives the petition. The decision shall be made in writing and include a copy of any criminal record report that the licensing authority reviewed. If the licensing authority determines that an occupational or professional license should not be granted because of the criminal conviction of an applicant, the decision shall set forth the reasons for the determination which shall address each of the factors in subsection (e) that the licensing authority deemed relevant to the determination.

(2) If the licensing authority decides that the professional or occupational license should not be granted, the licensing authority may provide an alternative advisory opinion, in which the licensing authority may advise the applicant of actions the applicant may take to remedy the disqualification.

(3) If advised by the licensing authority of remedial actions, the applicant may submit a revised petition reflecting completion of the remedial actions before a deadline set by the licensing authority in the alternative advisory decision.

(g) The applicant may appeal the licensing authority's decision as provided in section 176.

(h) An ambiguity in a professional or occupational regulation relating to a licensing authority's use of an applicant's criminal record shall be resolved in the favor of the applicant.

(i) Nothing in this section shall be construed to change a licensing authority's ability to enforce other conditions of professional and occupational licenses, including the personal qualifications required to obtain recognition or compliance with other regulations.

Section 172N ½. (a) At least once every three years, a licensing authority shall review and issue a report on their license application review and approval processes to ensure that those decisions promote economic opportunities while fostering public safety in a manner consistent with the stated objectives of applicable statutes.

In so reviewing, each licensing authority shall report to the division of occupational licensure, or the department under which the licensing authority sits:

(1) the number of times that each licensing authority acted to deny, diminish, suspend, revoke, withhold or otherwise limit state recognition for a license because of an individual's criminal record;

(2) the criminal convictions that were the subject of each licensing authority action;

(3) the number of applicants petitioning each licensing authority;

(4) the criminal convictions that were the subject of each approval or denial of a petition; and

(5) other relevant data as determined by the division of occupational licensure or the department under which the licensing authority sits.

(b) The division of occupational licensure or department governing the licensing authority shall compile and publish a report on a searchable public website summarizing data reported.

SECTION 2. There shall be a special commission on background record requirements and good moral character for occupational licensure consisting of 11 members: the commissioner of occupational licensure or a designee, who shall serve as chair; the commissioner of public

health, or a designee; the executive director of the Massachusetts office of victim assistance, or a designee; and 8 members to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts AFL-CIO Council, Inc., 1 of whom shall be a representative of the Massachusetts Building Trades Council, 1 of whom shall be a representative of a local chamber of commerce, 1 of whom shall be a representative of the NAACP New England Area Conference, 1 of whom shall be a representative of a registered Massachusetts affiliate of the National Urban League, Inc., 1 of whom shall be a representative of the YWCA's of Massachusetts, Inc., and 1 of whom shall be a representative of the Greater Boston Legal Services, Inc..

The commission shall: (a) advise the division of occupational licensure and licensing authorities, as defined in section 172N of chapter 6 of the General Laws, to provide recommendations for background record requirements for each professional and occupational license granted within the commonwealth; and (b) report on the use and any necessity of, or the elimination or modification of vague terms contained in the General Laws, including but not limited to chapters 112 and 151B, relative to licensing or employment decision making, including: (i) "good moral character"; (ii) "moral turpitude"; or (iii) "character and fitness".

Background record requirements developed by the commission shall not be designed to eliminate certain licenses, nor to develop or recommend that the division of occupational licensure or other licensing authority create new licenses or additional professional requirements for licensure. The commission shall report its findings, including any recommended further legislative action, to the offices of the House and Senate Clerks and to the Joint Committee on Consumer Protection and Professional Licensure not later than 6 months.