

HOUSE No.

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: |
|------------------------------------|-----------------------|-----------------|
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>1/8/2025</i> |

HOUSE No.

[Pin Slip]

[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:

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

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

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

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

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

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

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

18 (4) a juvenile adjudication;

19 (5) a non-violent misdemeanor;

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

23 (i) a crime punishable by imprisonment for a term exceeding 2 and a half years, or any
24 act of juvenile delinquency involving the use or possession of a deadly weapon that would be
25 punishable by imprisonment for such term if committed by an adult, that (A) has as an element
26 involving the use, attempted use or threatened use of physical force or a deadly weapon against
27 the person of another; (B) is burglary, extortion, arson or kidnapping; (C) involves the use of
28 explosives; or (D) resulted in death, bodily injury, or serious bodily injury with malice
29 aforethought;

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

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

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

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

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

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

47 (e) If the applicant's criminal record is directly related to the performance, duties,
48 responsibilities, practices or functions of the profession, the licensing authority shall consider the
49 following factors, in a light most favorable to the applicant, to demonstrate evidence of
50 rehabilitation:

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

52 (2) the length of time since the offense;

- 53 (3) the completion of a criminal sentence, not including financial obligations;
- 54 (4) a certificate of rehabilitation, restoration of rights or good conduct;
- 55 (5) completion of, or active participation in, rehabilitative drug or alcohol treatment or
56 similar programs;
- 57 (6) testimonials and recommendations, including, but not limited to, progress reports
58 from the applicant's probation or parole officer;
- 59 (7) education and training;
- 60 (8) employment history;
- 61 (9) the applicant's responsibilities, including civic and community engagement or family
62 contributions;
- 63 (10) whether the applicant will be bonded in the occupation; and
- 64 (11) other evidence of rehabilitation or information that the applicant submitted to the
65 licensing authority, including mitigating circumstances.

66 (f)(1) The licensing authority shall issue and send a decision to the applicant on the
67 petition not later than 60 days after the licensing authority receives the petition or, if a hearing is
68 held, not later than 90 days after the licensing authority receives the petition. The decision shall
69 be made in writing and include a copy of any criminal record report that the licensing authority
70 reviewed. If the licensing authority determines that an occupational or professional license
71 should not be granted because of the criminal conviction of an applicant, the decision shall set

72 forth the reasons for the determination which shall address each of the factors in subsection (e)
73 that the licensing authority deemed relevant to the determination.

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

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

81 (g) The applicant may appeal the licensing authority's decision as provided in section
82 176.

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

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

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

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

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

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

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

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

100 and

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

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

106 SECTION 2. There shall be a special commission on background record requirements
107 and good moral character for occupational licensure consisting of 11 members: the commissioner
108 of occupational licensure or a designee, who shall serve as chair; the commissioner of public
109 health, or a designee; the executive director of the Massachusetts office of victim assistance, or a
110 designee; and 8 members to be appointed by the governor, 1 of whom shall be a representative of
111 the Massachusetts AFL-CIO Council, Inc., 1 of whom shall be a representative of the
112 Massachusetts Building Trades Council, 1 of whom shall be a representative of a local chamber

113 of commerce, 1 of whom shall be a representative of the NAACP New England Area
114 Conference, 1 of whom shall be a representative of a registered Massachusetts affiliate of the
115 National Urban League, Inc., 1 of whom shall be a representative of the YWCA's of
116 Massachusetts, Inc., and 1 of whom shall be a representative of the Greater Boston Legal
117 Services, Inc..

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

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