
IDAHO OCCUPATIONAL LICENSING AND CERTIFICATION LAWS COMMITTEE

AUGUST 27, 2019

SUZANNE HULTIN-NATIONAL CONFERENCE OF STATE LEGISLATURES



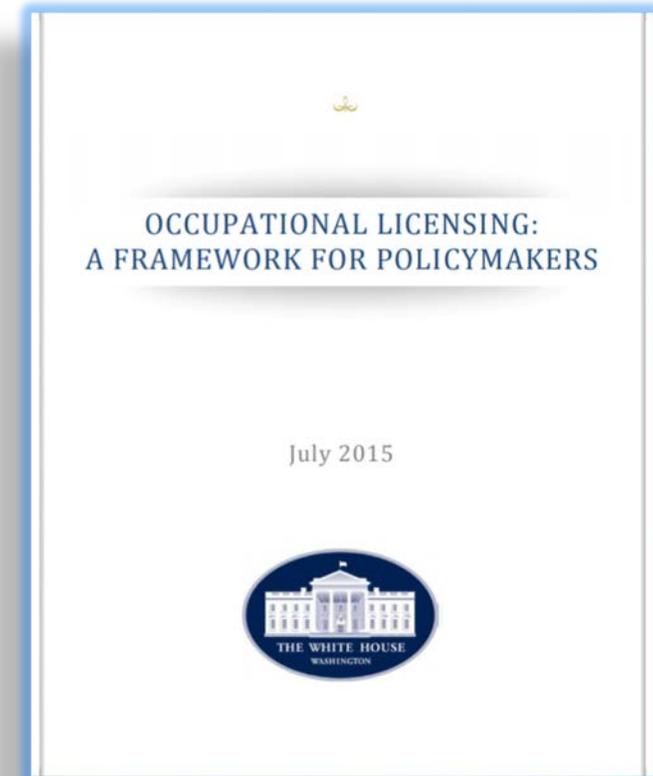
AGENDA

- State of Occupational Licensing
- Occupational Licensing Project
- Licensing Recognition Legislation
- Burdens for People with Criminal Histories



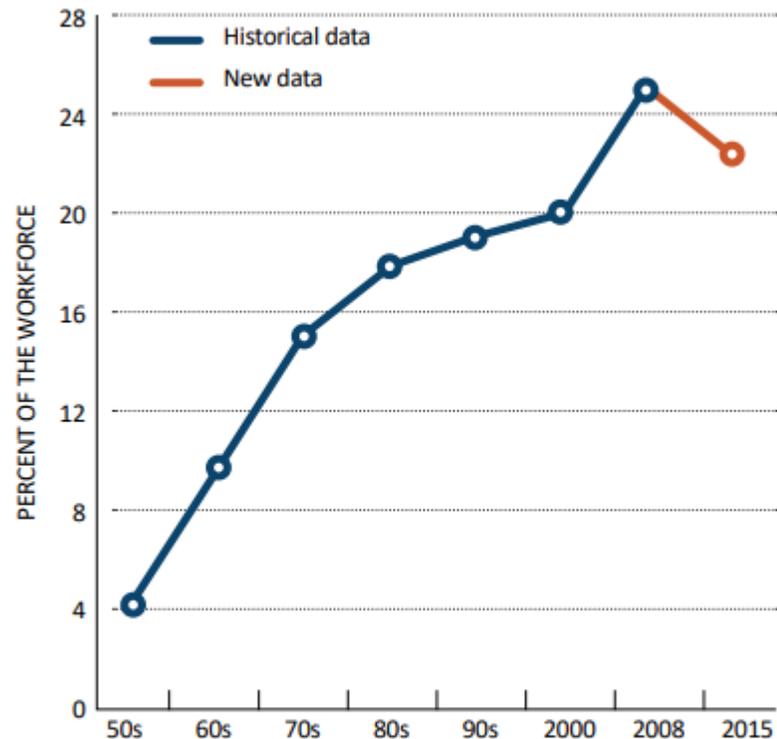
GROWING MOMENTUM ON OCCUPATIONAL LICENSING

- 2015 White House Report
- *North Carolina Dental vs. FTC*
- 2017 NCSL, CSG & NGA Grant
- FTC-Economic Liberty Task Force Roundtables
- 2018 Funding for States



THE STATE OF OCCUPATIONAL LICENSING

Figure 1. Share of U.S. Workers with an Occupational License



Note: Estimates for 1950-2008 are for workers with state licenses; estimates for 2015 include state, federal and local licenses.

Source: *The Council of State Governments (1952); Greene (1969); Kleiner (2006); and Kleiner and Krueger (2013), Westat data; Bureau of Labor Statistics (2015);*

- Licensing is the single largest labor market institution in the country
 - Roughly 25% of the workforce
 - More people need state licenses to work than are covered by the minimum wage or are members of unions

BENEFITS OF LICENSURE

Intent of Licensure:

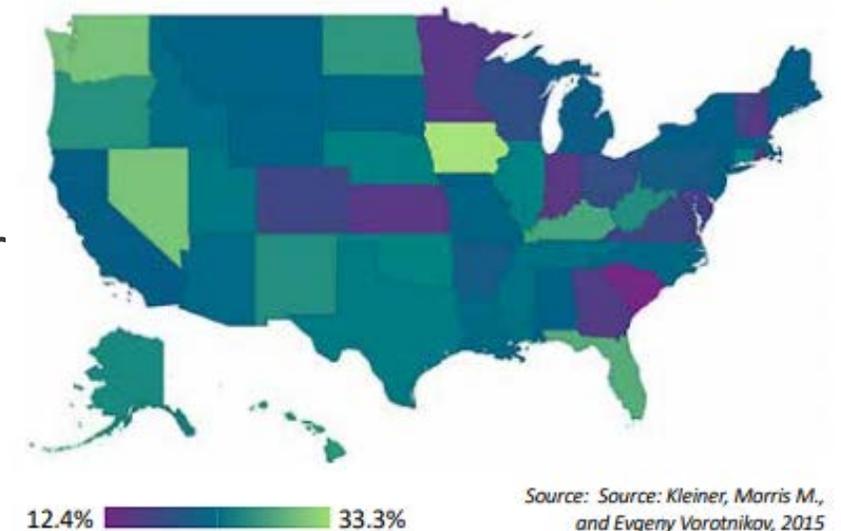
- Safeguard public health and safety
- Protect consumers by guaranteeing minimum educational requirements and industry oversight
- Support career development and pathways for licensed workers and enhanced professionalism for licensed workers
- Step in when competitive market forces fail to achieve desired outcomes

COSTS OF LICENSURE

Unnecessary requirements have been found to:

- Reduce employment in licensed occupations
- Reduce geographic mobility
- Reduce wages for unlicensed workers relative to their licensed counterparts
- Reduce market competition and innovation
- Increase the price of goods and services
- Disproportionately burden certain populations

Figure 2. Percent of Workforce Licensed by State, 2015



EFFECTS ON SPECIFIC POPULATIONS

- Military veterans face legal barriers to work when experience requirements do not transfer from military to civilian experience.
- Military spouses move often and face barriers to obtaining a license in a new state, despite meeting all requirements and practicing in another. A high percentage of spouses work in licensed occupations.
- Individuals with criminal records can face outright bans on working.
- Immigrants with work authorization face hurdles in applying their experience and training abroad to licensing requirements in the states.
- The long-term unemployed and people with low incomes may not be able to pay the upfront fees for training and licensing in order to practice.





OCCUPATIONAL LICENSING: ASSESSING STATE POLICY AND PRACTICE PROJECT OVERVIEW

PROJECT OVERVIEW

- 2017-2019 Grant from US Department of Labor's Employment and Training Administration
 - Additional funding in 2018
- National Project Partners: NCSL, The Council of State Governments (CSG) and the National Governors Association Center for Best Practices (NGA Center)
- Project Goals:
 1. Reducing barriers to the labor market
 2. Improving portability of licenses across state lines
- Focus on four key populations: military families, individuals with criminal records, immigrants and dislocated workers

RESEARCH PRODUCTS SO FAR

Databases

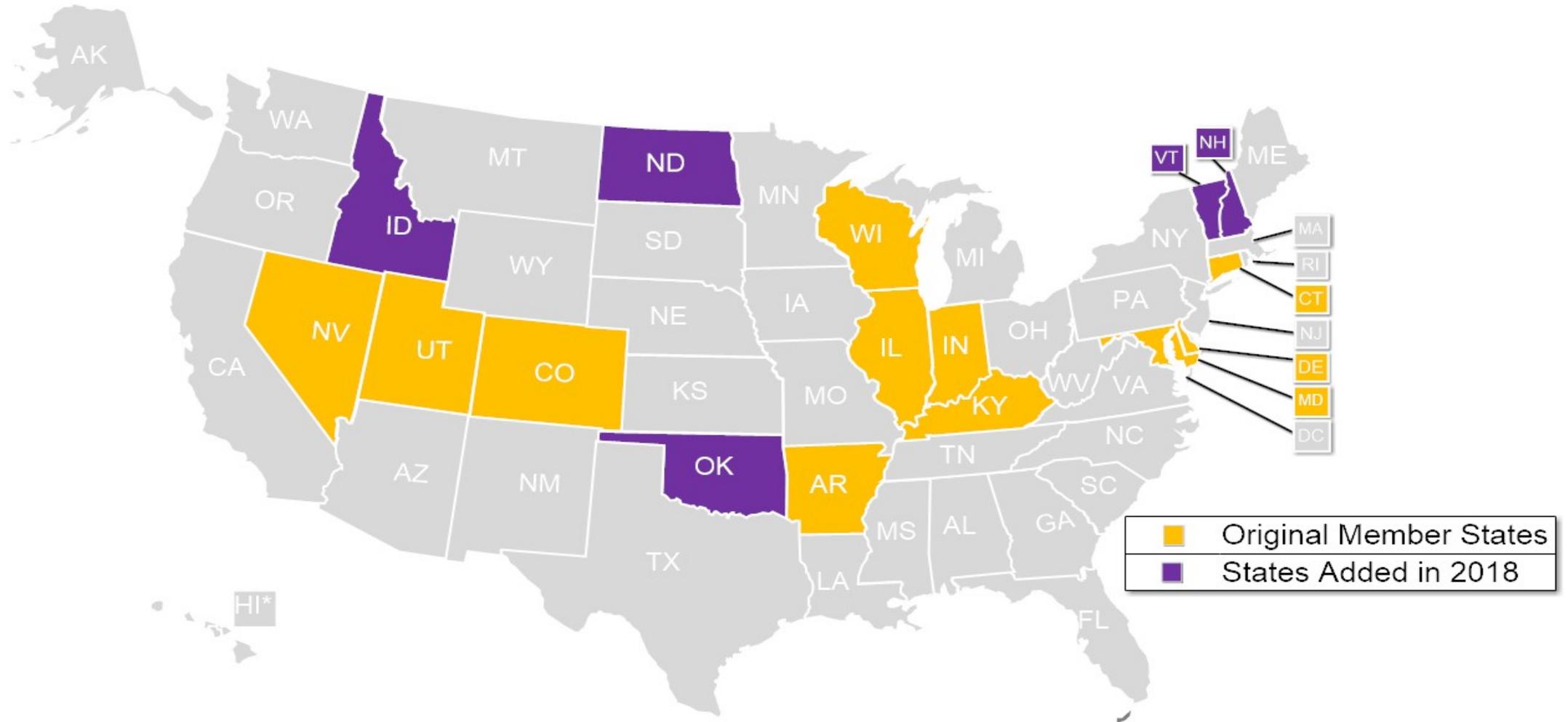
- The National Occupational Licensing Database
 - Database containing the minimum licensure requirements of 30+ occupations across all 50 states – soon to be expanded to 50+ occupations
- State Net Legislative Database
 - Comprehensive 50-state legislative database covering all things occupational licensing and regulation

Publications

- The State of Occupational Licensing – 2017
 - Literature review of occupational licensing policy up to 2017
- Barriers to Work Series – 2018
 - Focused deep-dives on policy challenges and best practices for each of the four population groups
- Blogs, Web Resources and LegisBriefs – Ongoing

WWW.NCSL.ORG/STATESLICENSE

MULTI-STATE LEARNING CONSORTIUM MEMBER STATES



ACTION PLANNING

- Individualized, state-driven action planning for all member states
- Beginning at the 2017 Consortium Meeting, each state team worked with liaisons from NCSL, CSG and NGA to:
 - Develop goals
 - Identify stakeholders necessary for policy change
 - Construct timelines
- After the Consortium Meeting, state's host in-state meetings on their own turf where they identify local stakeholders to attend and receive additional technical assistance from NCSL, CSG and NGA

TRENDS AMONG CONSORTIUM STATES

What states are working on in 2019:

- Changes to regulatory structure (i.e. implementing a sunrise process or tweaking board structure) – AR, IL, IN and KY
- Connecting licensure to the greater workforce development picture – All states, particularly MD, VT, CO
- Interest in reciprocity and working across state lines – All states, particularly CT, IN, UT and NV

Challenges:

- Both internal and external messaging of the project
- Political challenges
- Dealing with administration changes, term limits and other internal team changes
- Consistency, availability and quality of relevant data



LICENSING RECOGNITION LEGISLATION

ARIZONA AND PENNSYLVANIA EXAMPLES

Editorial Board

Arizona Scores One for Worker Mobility

Recognizing out-of-state occupational licenses is a great idea.

By Editorial Board
April 16, 2019, 7:30 AM MDT

Pennsylvania Democratic Gov. Signs Law Allowing Out-of-State Professional Licensing Reciprocity

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S.B. 227

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LICENSING STANDARDS FOR MILITARY SPOUSES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Brian M. Greene

LONG TITLE

General Description:

This bill modifies occupational and professional licensing requirements for certain individuals serving in the military and for certain spouses of individuals serving in the military.

Highlighted Provisions:

This bill:

- ▶ provides certain exemptions from occupational and professional licensure in a variety of occupations and professions, including for:
 - an individual serving in the military if the individual has a valid license in another jurisdiction; and
 - a spouse of an individual serving in the military if the spouse has a valid license



LICENSING RECOGNITION BILLS

Arizona H.B. 2569

- Allows for a license to be issued to a new resident of Arizona in the discipline applied for so long as they meet the following requirements
 - Holds a current license in another state that is in good standing. **Has held their current licensing for at least a year.**
 - Has established residency in Arizona or is active duty service member or the spouse of an active duty service member

Pennsylvania H.B. 1172

- Allows for a license to be issued to a new resident of Pennsylvania in the discipline applied for so long as they meet the following requirements
 - Holds a current license in another state that is in good standing.
 - **Demonstrates competency in the profession through methods determined by the board or through work experience or continuing education.**



LICENSING RECOGNITION BILLS

Both Arizona and Pennsylvania Laws:

- Require applicants pay all applicable fees;
- Does not have a disqualifying criminal history;
- Has not committed an act that may be disqualifying or require disciplinary action.

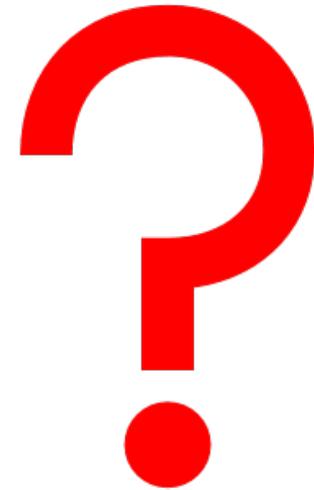
They are not reciprocity bills. They do not establish reciprocity with any other state, also do not prevent any licensing board from entering into a reciprocity agreement with another state.

They do not affect established licensing agreements set in interstate compacts or existing reciprocity agreements.

They do not affect the regulation of new applications applying for their first license in Arizona or Pennsylvania.

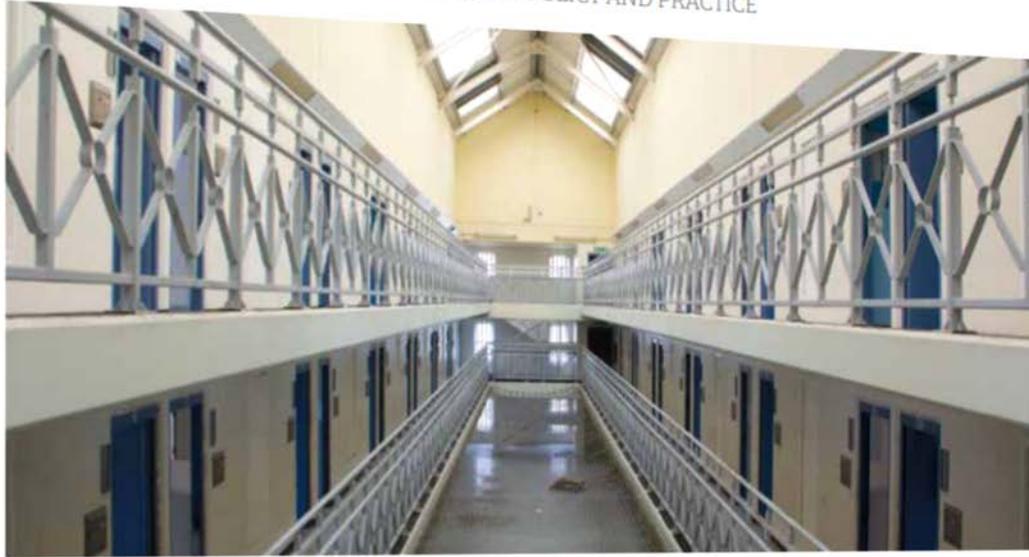
YET TO BE DETERMINED...

- Licensing is still at the board discretion.
- Vague on “disqualifying criminal history.”
- Do not address scope of practice discrepancies.



LICENSING BURDENS FOR PERSONS WITH CRIMINAL HISTORIES

OCCUPATIONAL LICENSING ASSESSING STATE POLICY AND PRACTICE



Barriers to Work: Improving Employment in Licensed Occupations for Individuals with Criminal Records

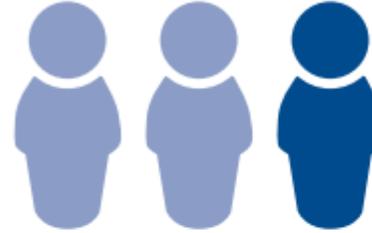
BY CHIDI UMEZ, THE COUNCIL OF STATE GOVERNMENTS—JUSTICE CENTER
REBECCA PIRIUS, NATIONAL CONFERENCE OF STATE LEGISLATURES

Approximately 77 million Americans, or one in three adults, have a criminal record. Having a criminal record can make it difficult, or even impossible, for an individual to work in a given field, especially one that requires an occupational license. In 2014, employment barriers faced by people with felony convictions—including occupational licensing and other challenges, such as lower levels of education and job skills—were associated with a reduction in the overall employment rate. This amounted to a loss of at least 1.7 million workers from the workforce and a cost of at least \$78 billion to the economy.¹

What is an occupational license?

An occupational license is a credential that government—most often states—requires a worker to hold in certain occupations. Aspiring workers must meet

Criminal records (national data)



77,000,000

Approximate number of American adults
— 1 in 3—with a criminal record

Source: Bureau of Justice Statistics, 2016

600,000

Inmates released each year

Incarceration: Communities of color most affected

■ African-American males ages 18 to 19: 11.8 times more likely be imprisoned than white male same age

x11.8

■ African-American females: twice as likely as white females to be imprisoned

x2

■ Hispanics: 856 per 100,000

Source: Bureau of Justice Statistics: Prisoners, 2016

Occupational licensing provisions of law

Across the 50 states and federal system, the National Inventory of Collateral Consequences of Conviction catalogs more than

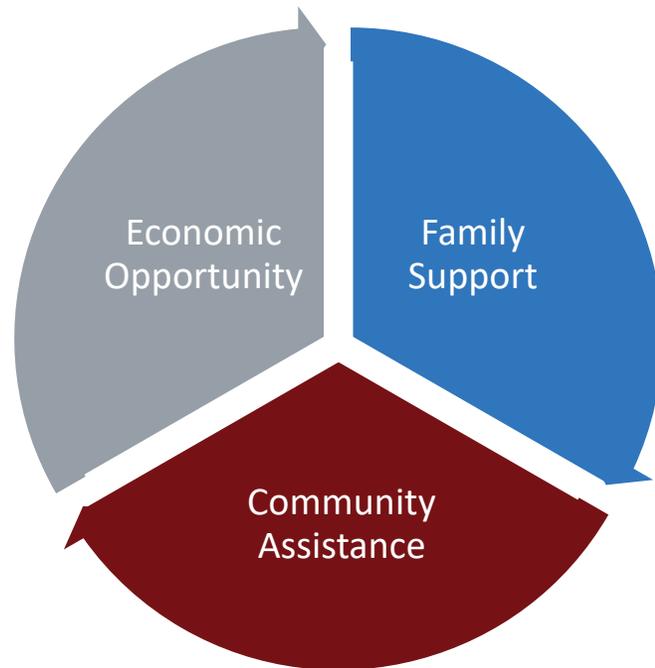
15,000

provisions of law (contained both in statutory and regulatory codes) that limit occupational licensing opportunities for individuals with criminal records.



NATIONAL CONFERENCE OF STATE LEGISLATURES

COLLATERAL CONSEQUENCES AND LICENSING



Barriers towards licensing:

- **Blanket Bans:** Automatic Disqualification
- **Good Moral Character Clauses:** Left to the Discretion of Boards
- **Cost:** Licensing Fees and Education

COLLATERAL CONSEQUENCES AND LICENSING

State Policy Options:

- Relevancy Limitations- convictions have a “direct, rational, or reasonable relationship” to the duties of the occupation
- Modification of Morality Clauses- removing vague and broad standards, providing more clarity on exclusionary convictions
- Establish Pre-Qualification Standards- allows applicants to petition boards for a “pre-qualification” opinion prior to going through the application process
- Certification of Rehabilitation- may be used to provide a way for qualified people with criminal records to demonstrate rehabilitation or a commitment to rehabilitation

COLLATERAL CONSEQUENCES ENACTMENTS IN 2019

- **Arkansas SB 451:** Lists convictions that disqualify an applicant from most occupational licenses, allows for individuals to **petition** the board to consider their conviction and potential for a waiver, and prohibits licensing authorities from considering arrest records and using vague terms such as **“moral turpitude”** and **“good character.”**
- **Mississippi SB 2781:** Prohibits boards from denying a license unless the offense is **“directly related”** to the duties of the occupation, applicants may **petition** the boards to determine if their criminal record is disqualifying, licensing authorities are prohibited from including vague terminology such as **“moral turpitude”, “any felony”** and **“good character.”**
- **Oklahoma HB1373:** Removes vague terminology such as **“good moral character”** and **“moral turpitude”** from licensing requirements, states disqualifying offenses must **“substantially relate”** to the duties of the occupation and **“pose a reasonable threat to public safety.”**



Questions?

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