Julie A. Cameron *Legislative Service Commission*

H.B. 429

125th General Assembly
(As Introduced)

Reps. Key, Price, Mason, Fessler, Seitz, Miller, Beatty, Barrett, Harwood, Strahorn, Brinkman

BILL SUMMARY

- Prohibits boards, commissions, or agencies governed under Title 47 of the Revised Code from denying a license, certificate, or permit to a person convicted of a non-violent felony under certain circumstances.
- Prohibits the Superintendent of Insurance from denying a license as a surety bail bond agent and from assessing other penalties against an agent for conviction of a non-violent felony.

CONTENT AND OPERATION

Background

Under current law, several boards, commissions, and agencies under Ohio's Occupations and Professions Laws (Title 47 of the Revised Code) (hereafter "licensing authorities") have the ability to deny a license, certificate, or permit (hereafter "license"), as applicable, if an applicant or licensee has been convicted of a felony.

Required license denials, revocations, and suspensions

The licensing authorities that issue licenses for the following occupations, under existing law, must either deny a license or suspend, revoke, or limit a license if the license applicant or licensee was convicted of or pled guilty to a felony: (1) auctioneers (sec. 4707.02),[1] (2) private investigators and security guard employees (sec. 4749.03), (3) physician assistants (sec. 4730.25), (4) physicians and limited practitioners (sec. 4731.22), (5) motor vehicle salvage (sec. 4738.07), (6) nursing home administrators (sec. 4751.10),

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[1] *None of the sections cited under "**Required license denials, revocations, and suspensions**" appear in the bill.*

(7) anesthesiologist assistants (sec. 4760.13), and (8) acupuncturists (sec. 4762.13). Additionally, in order to qualify for an examination administered by the Construction Industry Examining Board, an applicant must not have been convicted of a felony (sec. 4740.06).[2]

Permitted license denials, revocations, limitations, or suspensions

Ohio's Occupations and Professions Laws generally permit the licensing authorities of the following occupations to deny the initial issuance or renewal of a license or to revoke, limit, or suspend a license if a license applicant or licensee is convicted of a felony or other crimes as specified:

(1) Accountants, for a felony (sec. 4701.16);[3]

(2) Architects, for a felony or crime of fraud committed in the course of practice (sec. 4703.15);

(3) Barbers, for a felony (sec. 4709.13);

(4) Credit services organizations, for a felony or any criminal offense involving fraud, or for failure to notify the Division of Financial Institutions of any such conviction (sec. 4712.03);

(5) Dental hygienists, for a felony or a misdemeanor committed in the course of practice (sec. 4715.30);

(6) Embalmers, funeral directors, and crematories, for conviction of or plea of guilty to a felony or crime of moral turpitude (sec. 4717.14);[4]

(7) Telephone solicitors, for an arrest for, conviction of, plea of guilty or no contest to, or prosecution for a felony, theft offense, racketeering, securities law, or corrupt activities (sec. 4719.02);

(8) Nurses, for any felony or crime of moral turpitude (sec. 4723.28);

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[2] *Occupations the Construction Industry Examining Board governs include heating, ventilating, and air conditioning contractors, refrigeration contractors, electrical contractors, plumbing contractors, or hydronics contractors (sec. 4740.06).*

[3] *None of the sections cited under "**Permitted license denials, revocations, limitations, and suspensions**" appear in the bill.*

[4] *"Moral turpitude" means "conduct that is contrary to justice, honesty, or morality" (Black's Law Dictionary, 1026 (7th Ed.)).*

(9) Optometrists, for conviction of a felony or of a misdemeanor in the course of practice; and dispensing opticians, for conviction of a felony or a crime of moral turpitude (secs. 4725.19 and 4725.53);

(10) Pawnbrokers, upon criminal conviction for theft, receiving stolen property, or money laundering, the Superintendent of Financial Institutions may suspend a license, or upon any criminal conviction other than theft, receiving stolen property, or money laundering, the Superintendent may assess a penalty against the licensee or act to revoke or suspend the licensee's license (sec. 4727.15);

(11) Precious metal dealers, for a felony or any crime involving moral turpitude (sec. 4728.13);

(12) Pharmacists, for conviction of a felony or any law regarding drug samples (sec. 4729.53);

(13) Psychologists, for conviction of a felony or any crime involving moral turpitude (sec. 4732.17);

(14) Professional engineers and surveyors, for conviction of or a plea of guilty to a felony or crime of moral turpitude (sec. 4733.20);

(15) Chiropractors, for conviction of or plea of guilty to a felony, a misdemeanor involving moral turpitude, or a misdemeanor committed in the course of practice (sec. 4734.31);

(16) Real estate brokers, for conviction of a felony or a crime of moral turpitude (sec. 4735.13);

(17) Veterinarians, for conviction of a felony, a crime involving moral turpitude, felony drug abuse, or cruelty to animals (sec. 4741.22);

(18) Speech-language pathologists and audiologists, for conviction of or plea of guilty to a felony or crime involving moral turpitude (sec. 4753.10);

(19) Occupational therapists and physical therapists, for conviction of a felony or a crime involving moral turpitude (secs. 4755.10 and 4755.47); athletic trainers, for conviction of a crime involving moral turpitude (sec. 4755.64);

(20) Counselors, social workers, and marriage and family therapists, for conviction of a felony in general or a misdemeanor committed in the course of practice (sec. 4757.36);

(21) Chemical dependency professionals, for a felony or for a misdemeanor committed in the course of practice (sec. 4758.30);

(22) Dietitians, for conviction of a felony or of a misdemeanor committed in the course of practice (sec. 4759.07);

(23) Respiratory care, for conviction of or plea of guilty to a felony or crime of moral turpitude (sec. 4761.09);

(24) Emergency medical services, for conviction of or plea of guilty to a felony or a crime involving moral turpitude (sec. 4765.18);

(25) Orthotists, prosthetists, and pedorthists, for conviction of a misdemeanor crime of moral turpitude (sec. 4779.28).

Additionally, the Superintendent of Insurance, under the Insurance Producers Licensing Act (R.C. Chapter 3905.), may suspend, revoke, or refuse to issue or renew any license of an insurance agent, may assess a civil penalty, or may impose any other sanctions authorized under the Insurance Producers Licensing Act for a conviction of a felony (sec. 3905.14(B)(6)).[5]

Operation of the bill

The bill prohibits the aforementioned licensing authorities from denying a license to a qualifying applicant, except as otherwise provided in the bill (sec. 4743.06(B)). A "qualifying applicant," under the bill, is a person who has been convicted of or pleaded guilty to a felony other than an offense of violence or adjudicated a delinquent child for committing an act that if committed by an adult would be a felony other than an offense of violence (see **COMMENT**) and to whom either of the following applies:

(1) The person has received or receives a vocational certificate from the Department of Rehabilitation and Correction (hereafter DRC) or the Department of Youth Services (hereafter DYS) in the occupation or profession for which a certificate, license, or permit is sought.

(2) The person begins the coursework required for a vocational certificate issued by the DRC or the DYC while imprisoned or confined in the custody of either department and completes the coursework required for a vocational certificate within one year of release from that imprisonment or confinement. (Sec. 4743.06(A) and (B).)

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[5] *"Insurance agent" for the purposes of this provision, includes a limited lines insurance agent, surety bail bond agent, and surplus line broker (sec. 3905.14(A)(1)).*

Therefore, the occupations whose licensing authorities currently *are* permitted to deny a license for conviction of or guilty plea to a felony *are not* permitted, under the bill, to deny a license to a qualifying applicant because that person was convicted of a felony other than an offense of violence. The bill does not limit a licensing authority's ability to take other disciplinary actions or the ability to take action for other criminal convictions.

The bill permits a licensing authority to deny a license to a qualifying applicant if the licensing authority finds that either (1) a direct relationship exists between one or more of the qualifying applicant's previous offenses and the specific certificate, license, or permit sought, or (2) the issuance of the certificate, license, or permit would involve an unreasonable risk to the safety or welfare of specific individuals, the general public, or property. Additionally, the bill permits a licensing authority to deny a license to a qualifying applicant if the Revised Code *requires* the denial of a license to the qualifying applicant because the qualifying applicant has either been convicted of or pleaded guilty to a felony or has been adjudicated a delinquent child for an offense that would be a felony if committed by an adult (see ***Required license denials, revocations, and suspensions, above***). (Sec. 4743.06(C).)

The bill also prohibits the Superintendent of Insurance from suspending, revoking, or refusing to issue or renew any license of a surety bail bond agent, assess a civil penalty, or impose any other sanction or sanctions authorized under the Insurance Producers Licensing Act because the agent has been convicted of or pleaded guilty to a felony that is not an offense of violence unless the Superintendent finds that one of the following conditions is present:[6]

(1) There is a direct relationship between one or more of the agent's previous offenses and the issuance or renewal of a license.

(2) The issuance or renewal of the license would involve an unreasonable risk to the safety or welfare of specific individuals, the general public, or property. (Sec. 3905.14(K).)

COMMENT

Continuing law unchanged by the bill defines an "offense of violence" as

[6] *A licensed surety bail bond agent may execute or countersign bail bonds in connection with judicial proceedings and receive money or other things of value for those services, with exceptions listed in the law (sec. 3905.85(C)).*

(1) A violation of R.C. sections 2903.01, 2903.02, 2903.03, 2903.04 (aggravated murder, murder, voluntary and involuntary manslaughter); R.C. sections 2903.11, 2903.12, 2903.13 (felonious assault, aggravated assault, and assault); R.C. section 2903.15 (permitting child abuse); R.C. sections 2903.21, 2903.211, 2903.22 (aggravated menacing, menacing by stalking, and menacing); R.C. sections 2905.01, 2905.02, 2905.11 (kidnapping, abduction, and extortion); R.C. sections 2907.02, 2907.03, 2907.05 (rape, sexual battery, and gross sexual imposition); R.C. sections 2909.02, 2909.03, 2909.24 (aggravated arson, arson, and terrorism); R.C. sections 2911.01, 2911.02, 2911.11, 2911.12 (aggravated robbery, robbery, aggravated burglary, burglary); R.C. sections 2917.01, 2917.02, 2917.03, 2917.31 (inciting to riot and related crimes); R.C. section 2919.25 (domestic violence); R.C. sections 2921.03 and 2921.04 (intimidation and intimidation of an attorney, victim, or witness in a criminal case); R.C. section 2921.34 (escape); R.C. section 2923.161 (improperly discharging firearm at or into habitation; school-related offenses); R.C. section 2919.22(B)(1) through (4) (endangering children); or felonious sexual penetration in violation of former R.C. section 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in (1) above;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under (1) to (3) above. (Sec. 2901.01(A)(9), not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-10-04	p. 1672

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