



*David M. Gold*

***Bill Analysis***  
*Legislative Service Commission*

## **H.B. 104**

127th General Assembly  
(As Introduced)

**Reps. Core, Setzer, Seitz, Hughes, Dodd, Flowers, Combs, Adams, White, Webster, R. McGregor, Bulp, Collier, J. McGregor, Stebelton, Strahorn**

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### **BILL SUMMARY**

- Requires a criminal records check of an applicant for an initial license for a registered accounting firm, certified or registered public accountant, barber, barber shop operator, dentist, dental hygienist, dental hygienist teacher, funeral director, embalmer, operator of a funeral home, embalming facility, and crematory facility, optometrist, dispensing optician, ocularist, pharmacist, wholesale distributor of dangerous drugs, animal shelter that uses drugs for euthanasia of animals, terminal distributor of dangerous drugs, psychologist, school psychologist, chiropractor, veterinarian, occupational therapist, occupational therapist assistant, physical therapist, physical therapist assistant, athletic trainer, counselor, professional clinical counselor, professional counselor, social worker, independent social worker, social worker assistant, marriage and family therapist, dietician, respiratory care professional, orthotist, prosthetist, and pedorthotist.
- Establishes a procedure for an applicant to request the Bureau of Criminal Identification and Investigation to conduct a criminal records check using existing forms and procedures.
- Requires the Superintendent of the Bureau of Criminal Identification and Investigation to conduct the requested criminal records checks and report the results to the applicable licensing agency.
- Requires agencies that grant licenses for the specified occupations to adopt rules establishing administrative and procedural requirements for criminal records checks.

- Provides that the results of criminal records checks of applicants for initial licenses in the specified occupations are not public records.

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## CONTENT AND OPERATION

### *Occupational licenses for which criminal records checks are required*

The bill requires criminal records checks of applicants for initial licenses in certain occupations. As used in the bill, "license" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction. An "applicant for an initial license" includes persons seeking a license for the first time or who have a license from another state and are seeking a license in Ohio by reciprocity, endorsement, or similar manner. A "licensing agency" is the board authorized by any of the Revised Code chapters specified in the bill (see next paragraph) to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises. (R.C. 4776.01(A), (C), and (D).)

The licensing agencies and licensees affected by the bill are the following: Accountancy Board (registered accounting firms, certified and registered public accountants), Barber Board (barbers and barber shop operators), State Dental Board (dentists, dental hygienists, and dental hygienist teachers), Board of Embalmers and Funeral Directors (funeral directors, embalmers, and operators of funeral homes, embalming facilities, and crematory facilities), State Board of Optometry (optometrists), Ohio Optical Dispensers Board (dispensing opticians and ocularists), State Board of Pharmacy (pharmacists, wholesale distributors of dangerous drugs, animal shelters that use drugs for euthanasia of animals, and terminal distributors of dangerous drugs), State Board of Psychology (psychologists and school psychologists), State Chiropractic Board (chiropractors), State Veterinary Medical Licensing Board (veterinarians), Occupational Therapy Section, Physical Therapy Section, and Athletic Trainers Section of the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board (occupational therapists, occupational therapist assistants, physical therapists, physical therapist assistants, and athletic trainers), Counselor, Social Worker, and Marriage and Family Therapist Board (counselors, professional clinical counselors, professional counselors, social workers, independent social workers, social worker assistants, and marriage and family therapists), Ohio Board of Dietetics (dietitians), Ohio Respiratory Care Board (respiratory care

professionals), and State Board of Orthotics, Prosthetics, and Pedorthics (orthotists, prosthetists, and pedorthosists). The specified licensing agencies may not grant an application for an initial license unless the applicant requests a criminal records check as required by the bill and the agency decides that the results of the check do not impair the applicant's eligibility for a license. (R.C. 4701.08, 4709.071, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4732.091, 4734.202, 4741.10, 4755.70, 4757.101, 4759.061, 4761.051, 4776.01(C), and 4779.091.)

**Procedure for obtaining criminal records checks and reporting results**

The bill requires an "applicant for an initial license" in the specified occupations to submit a request to the Bureau of Criminal Identification and Investigation (BCII) for a criminal records check of the applicant. The request must be accompanied by the form prescribed by the Superintendent of BCII under existing law for conducting a records check, fingerprint impressions obtained on a standard impression sheet prescribed by the Superintendent under existing law, and fee prescribed by the Superintendent for criminal records checks under existing law. The applicant must provide the BCII with the applicant's name and address and the licensing agency's name and address and request that the Superintendent of the BCII obtain from the FBI any information it has pertaining to the applicant. Upon receiving the applicant's request, fingerprints, and fee, the Superintendent must conduct a criminal records check of the applicant in accordance with the existing procedure for employment-related record checks to determine whether any information exists that indicates that the applicant has been convicted of or pleaded guilty to any criminal offense in Ohio or any other state. The Superintendent must report the results of the criminal records check and any information received from the FBI to the licensing agency. (R.C. 109.572(A)(13), (B), and (C) and 4776.02.)

The bill requires each "licensing agency" to adopt rules under R.C. Chapter 119, establishing administrative and procedural requirements for criminal records checks conducted under the bill (R.C. 4776.03, 4709.05(J)(6), 4717.04(A)(12), 4725.09(D), 4725.44(B), 4755.05(H), 4755.61(A)(1), 4757.10(D), 4759.05(A)(12), 4761.03(A)(11), and 4779.08(A)(13)).

The results of criminal records checks made pursuant to the bill and reports containing those results, including any information provided by the FBI, are not public records for purposes of R.C. 149.43 (Public Records Law). The Superintendent of the BCII must make the results available to the licensing agency for use in determining whether the applicant should be granted a license, and the licensing agency must make the results available to the applicant or the applicant's representative. Otherwise, the results and report may not be made available to any other person or for any other purpose. (R.C. 4776.04.)

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## **HISTORY**

ACTION

DATE

Introduced

03-13-07

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