

House File 2627

S-5153

1 Amend House File 2627, as amended, passed, and reprinted by
2 the House, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <Section 1. Section 103.6, subsection 1, paragraph e, Code
6 2020, is amended by striking the paragraph.

7 Sec. 2. Section 103.9, subsection 3, Code 2020, is amended
8 by striking the subsection.

9 Sec. 3. Section 103.10, subsection 6, Code 2020, is amended
10 by striking the subsection.

11 Sec. 4. Section 103.12, subsection 6, Code 2020, is amended
12 by striking the subsection.

13 Sec. 5. Section 103.12A, subsection 4, Code 2020, is amended
14 by striking the subsection.

15 Sec. 6. Section 103.13, subsection 4, Code 2020, is amended
16 by striking the subsection.

17 Sec. 7. Section 103.15, subsection 7, Code 2020, is amended
18 by striking the subsection.

19 Sec. 8. Section 105.10, subsection 5, Code 2020, is amended
20 by striking the subsection.

21 Sec. 9. Section 105.22, subsection 4, Code 2020, is amended
22 by striking the subsection.

23 Sec. 10. Section 147.3, Code 2020, is amended to read as
24 follows:

25 **147.3 Qualifications.**

26 An applicant for a license to practice a profession under
27 this subtitle is not ineligible because of age, citizenship,
28 sex, race, religion, marital status, or national origin,
29 although the application form may require citizenship
30 information. ~~A board may consider the past criminal record of
31 an applicant only if the conviction relates to the practice of
32 the profession for which the applicant requests to be licensed.~~

33 Sec. 11. Section 147.55, subsection 5, Code 2020, is amended
34 by striking the subsection.

35 Sec. 12. Section 147A.7, subsection 1, paragraph j, Code

1 2020, is amended by striking the paragraph.

2 Sec. 13. Section 148.6, subsection 2, paragraph b, Code
3 2020, is amended by striking the paragraph.

4 Sec. 14. Section 148H.7, subsection 1, paragraph a, Code
5 2020, is amended by striking the paragraph.

6 Sec. 15. Section 151.9, subsection 5, Code 2020, is amended
7 by striking the subsection.

8 Sec. 16. Section 152.10, subsection 2, paragraph c, Code
9 2020, is amended by striking the paragraph.

10 Sec. 17. Section 153.34, subsection 9, Code 2020, is amended
11 by striking the subsection.

12 Sec. 18. Section 154A.24, subsection 1, Code 2020, is
13 amended by striking the subsection.

14 Sec. 19. Section 156.9, subsection 2, paragraph e, Code
15 2020, is amended by striking the paragraph.

16 Sec. 20. Section 272.1, Code 2020, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 5A. *"Offense directly relates"* refers to
19 either of the following:

20 a. The actions taken in furtherance of an offense are
21 actions customarily performed within the scope of practice of
22 a licensed profession.

23 b. The circumstances under which an offense was committed
24 are circumstances customary to a licensed profession.

25 Sec. 21. Section 272.2, subsection 14, paragraph a, Code
26 2020, is amended to read as follows:

27 a. The board may deny a license to or revoke the license
28 of a person upon the board's finding by a preponderance of
29 evidence that either the person has been convicted of a ~~crime~~
30 an offense and the offense directly relates to the duties and
31 responsibilities of the profession or that there has been
32 a founded report of child abuse against the person. Rules
33 adopted in accordance with this paragraph shall provide that
34 in determining whether a person should be denied a license or
35 that a practitioner's license should be revoked, the board

1 shall consider the nature and seriousness of the founded abuse
2 or crime in relation to the position sought, the time elapsed
3 since the crime was committed, the degree of rehabilitation
4 which has taken place since the incidence of founded abuse or
5 the commission of the crime, the likelihood that the person
6 will commit the same abuse or crime again, and the number of
7 founded abuses committed by or criminal convictions of the
8 person involved.

9 Sec. 22. Section 272C.1, Code 2020, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 7A. *"Offense directly relates"* refers to
12 either of the following:

13 a. The actions taken in furtherance of an offense are
14 actions customarily performed within the scope of practice of
15 a licensed profession.

16 b. The circumstances under which an offense was committed
17 are circumstances customary to a licensed profession.

18 Sec. 23. Section 272C.10, subsection 5, Code 2020, is
19 amended by striking the subsection and inserting in lieu
20 thereof the following:

21 5. Conviction of a felony offense, if the offense directly
22 relates to the profession or occupation of the licensee, in the
23 courts of this state or another state, territory, or country.
24 Conviction as used in this subsection includes a conviction of
25 an offense which if committed in this state would be a felony
26 without regard to its designation elsewhere, and includes a
27 finding or verdict of guilt made or returned in a criminal
28 proceeding even if the adjudication of guilt is withheld or not
29 entered. A certified copy of the final order or judgment of
30 conviction or plea of guilty in this state or in another state
31 constitutes conclusive evidence of the conviction.

32 Sec. 24. NEW SECTION. 272C.12 **Disqualifications for**
33 **criminal convictions limited.**

34 1. Notwithstanding any other provision of law to the
35 contrary, except for chapter 272, a person's conviction of a

1 crime may be grounds for the denial, revocation, or suspension
2 of a license only if an unreasonable risk to public safety
3 exists because the offense directly relates to the duties
4 and responsibilities of the profession and the appropriate
5 licensing board, agency, or department does not grant an
6 exception pursuant to subsection 4.

7 2. A licensing board, agency, or department that may deny a
8 license on the basis of an applicant's conviction record shall
9 provide a list of the specific convictions that may disqualify
10 an applicant from receiving a license. Any such offense
11 shall be an offense that directly relates to the duties and
12 responsibilities of the profession.

13 3. A licensing board, agency, or department shall not deny
14 an application for a license on the basis of an arrest that
15 was not followed by a conviction or based on a finding that an
16 applicant lacks good character, suffers from moral turpitude,
17 or on other similar basis.

18 4. A licensing board, agency, or department shall grant
19 an exception to an applicant who would otherwise be denied a
20 license due to a criminal conviction if the following factors
21 establish by clear and convincing evidence that the applicant
22 is rehabilitated and an appropriate candidate for licensure:

23 a. The nature and seriousness of the crime for which the
24 applicant was convicted.

25 b. The amount of time that has passed since the commission
26 of the crime. There is a rebuttable presumption that an
27 applicant is rehabilitated and an appropriate candidate
28 for licensure five years after the date of the applicant's
29 release from incarceration, provided that the applicant was
30 not convicted of sexual abuse in violation of section 709.4,
31 a sexually violent offense as defined in section 229A.2,
32 dependent adult abuse in violation of section 235B.20, a
33 forcible felony as defined in section 702.11, or domestic abuse
34 assault in violation of section 708.2A, and the applicant
35 has not been convicted of another crime after release from

1 incarceration.

2 *c.* The circumstances relative to the offense, including any
3 aggravating and mitigating circumstances or social conditions
4 surrounding the commission of the offense.

5 *d.* The age of the applicant at the time the offense was
6 committed.

7 *e.* Any treatment undertaken by the applicant.

8 *f.* Whether a certification of employability has been issued
9 to the applicant pursuant to section 906.19.

10 *g.* Any letters of reference submitted on behalf of the
11 applicant.

12 *h.* All other relevant evidence of rehabilitation and present
13 fitness of the applicant.

14 5. An applicant may petition the relevant licensing board,
15 agency, or department, in a form prescribed by the board,
16 agency, or department, for a determination as to whether the
17 applicant's criminal record will prevent the applicant from
18 receiving a license. The board, agency, or department shall
19 issue such a determination at the next regularly scheduled
20 meeting of the board, agency, or department or within thirty
21 days of receiving the petition, whichever is later. The
22 board, agency, or department shall hold a closed session
23 while determining whether an applicant's criminal record will
24 prevent the applicant from receiving a license and while
25 determining whether to deny an applicant's application on
26 the basis of an applicant's criminal conviction. A board,
27 agency, or department may charge a fee to recoup the costs of
28 such a determination, provided that such fee shall not exceed
29 twenty-five dollars.

30 6. *a.* A licensing board, agency, or department that
31 denies an applicant a license solely or partly because of
32 the applicant's prior conviction of a crime shall notify the
33 applicant in writing of all of the following:

34 (1) The grounds for the denial or disqualification.

35 (2) That the applicant has the right to a hearing to

1 challenge the licensing authority's decision.

2 (3) The earliest date the applicant may submit a new
3 application.

4 (4) That evidence of rehabilitation of the applicant may be
5 considered upon reapplication.

6 b. A determination by a licensing board, agency, or
7 department that an applicant's criminal conviction is
8 specifically listed as a disqualifying conviction and the
9 offense directly relates to the duties and responsibilities
10 of the applicant's profession must be documented in written
11 findings for each factor specified in subsection 4 sufficient
12 for a review by a court.

13 c. In any administrative or civil hearing authorized by
14 this section or chapter 17A, a licensing board, agency, or
15 department shall carry the burden of proof on the question of
16 whether the applicant's criminal offense directly relates to
17 the duties and responsibilities of the profession for which the
18 license is sought.

19 7. A board, agency, or department may require an applicant
20 with a criminal record to submit the applicant's complete
21 criminal record detailing an applicant's offenses with an
22 application. A board, agency, or department may also require
23 an applicant with a criminal record to submit a personal
24 statement regarding whether each offense directly relates to
25 the duties and performance of the applicant's occupation. For
26 the purposes of this subsection, "*complete criminal record*"
27 includes the complaint and judgment of conviction for each
28 offense of which the applicant has been convicted.

29 Sec. 25. RULEMAKING PROCEDURES AND APPLICABILITY.

30 1. The boards designated in section 147.13 other than the
31 board of medicine, the board of nursing, the dental board, and
32 the board of pharmacy, when carrying out rulemaking pursuant to
33 chapter 17A to implement the provisions of this Act, shall each
34 adopt the same rules, which shall be applicable to all such
35 boards. The bureau of professional licensure of the department

1 of public health shall assist the boards in carrying out such
2 rulemaking.

3 2. The accountancy examining board, the architectural
4 examining board, the engineering and land surveying examining
5 board, the interior design examining board, the landscape
6 architectural examining board, and the real estate commission,
7 when carrying out rulemaking pursuant to chapter 17A to
8 implement the provisions of this Act, shall each adopt the same
9 rules, which shall be applicable to all such boards and the
10 real estate commission. The professional licensing bureau of
11 the department of commerce shall assist the boards and the real
12 estate commission in carrying out such rulemaking.

13 3. This section shall not apply to any rulemaking pursuant
14 to chapter 17A by a board or commission to implement the
15 provisions of this Act that the board or commission determines
16 is necessary to address circumstances or legal requirements
17 uniquely applicable to the board or commission.

18 Sec. 26. EFFECTIVE DATE. This Act takes effect January 1,
19 2021.>

20 2. Title page, by striking lines 1 through 4 and inserting
21 <An Act relating to disqualifications from holding a
22 professional license in this state due to criminal convictions,
23 and including effective date provisions.>

NATE BOULTON