

**Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement**

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ORIGINAL

Bill Number: SB 826 ER **Patron:** Locke
Bill Title: Predetermination for licensing eligibility; prior convictions

Bill Summary: Prohibits the use of vague or arbitrary terms by a regulatory board or department within the Department of Professional and Occupational Regulation or Department of Health when refusing a person a license, certificate, or registration to practice, pursue, or engage in any regulated occupation or profession. The bill requires such regulatory board or department denying a registration, license, or certificate based on information in the applicant's criminal history record to notify the applicant in writing of (i) the specific offense or offenses that contributed to such denial; (ii) how the criminal history directly relates to the occupation for which the registration, license, or certificate applies; and (iii) how the regulatory board or department weighed rehabilitation factors when making its decision.

The bill further allows an applicant to request a written predetermination from a regulatory board or department within the Department of Professional and Occupational Regulation concerning whether his criminal record would disqualify him from obtaining a license, certificate, registration, or other authority to engage in a particular occupation, trade, or profession in the Commonwealth.

Budget Amendment Necessary: See Fiscal Analysis **Items Impacted:** 353 (DPOR)

Explanation: The bill will create additional expenditures for which the Department of Professional and Occupational Regulation (DPOR) is not currently appropriated, and an indeterminate impact on the Office of Attorney General (OAG) and Department of Health Professions (DHP).

Fiscal Summary: It is anticipated that this bill will result in one-time nongeneral fund expenditures to update licensing software and an ongoing nongeneral fund expenditure impact for staff to process the requests, support additional board meetings, and hold additional hearings.

Fiscal Analysis: The bill would require DPOR to provide a written predetermination upon the request of a prospective applicant as to whether or not the prospective applicant's criminal record would be disqualifying for a specific license, certificate, registration, or similar credential.

According to DPOR, multiple licensing software systems would need to be updated at an approximate one-time cost of \$140,000. DOLI anticipates the bill will also result in an ongoing nongeneral fund expenditure impact for additional staff. DPOR may need to increase staffing levels to process the requests, support additional board meetings, and hold additional hearings depending on the number of predetermination requests. According to the agency, approximately 250 determination hearings are currently held on average for applicants across all the agency's boards, which represent fewer than ten percent of all applicants with

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some form of criminal record. DPOR anticipates that as a result of this bill, that number would increase significantly because individuals would no longer have to complete the application process or pay application fees before requesting a determination.

Assuming the number of hearings doubles to 500, which the agency considers a low estimate, DPOR indicates that an additional three legal hearing officers, one administrative coordinator, one court reporter/transcriptionist, and one supervisor/presiding officer would be required at an annual cost of \$740,000. Without these additional staff and a doubling of the number of hearings, DPOR estimates that the current backlog of 145 days to complete a hearing would extend to 280 days. Additionally, administrative and overheads costs associated with a hearing average approximately \$800, resulting in an additional \$200,000 annually.

DPOR's boards are funded by fees paid by regulants, and the bill does not provide for the establishment of a fee for a predetermination request. If boards are not able to absorb the increased costs associated with this bill, they would need to cut expenses elsewhere or raise existing fees.

According to DHP, the bill would result in increased workload for its boards and administrative staff, but the impact is indeterminate and will vary based on the number of applicants who have prior criminal convictions. Like DPOR, DHP is funded by fees and the agency may have to increase fees if revenues are not sufficient to support expenses. The bill may also impact reporting to the National Practitioner Data Bank and participation in interstate compacts.

According to the OAG, the legislation may create an increase in workload if prospective applicants challenge the decision of a board. The impact will vary based on the actual number of appeals. OAG generally bills costs to the board whose decision is appealed. The annual cost for one assistant attorney general position is \$144,160.

Other: The bill directs regulatory boards not to use the terms "good moral character" or "moral turpitude" in determining an applicant's qualifications, however the terms remain in code §§ 54.1-2400.6 (requirements for reporting by hospitals to DHP), 54.1-2706(2) (dentistry), 54.1-2806(1) (funeral directors and embalmers), 54.1-2915(A)(10) and (A)(20) (medicine and allied health professions), 54.1-3007(4) (nursing), 54.1-3215(2) (optometry), 54.1-3316(11) (pharmacy), 54.1-3480(B)(7) (physical therapy), 54.1-3807(1) (veterinary medicine) 54.1-3312 and 3440, which may result in a conflict.