

AMENDMENTS TO SENATE BILL NO. 637

Sponsor: REPRESENTATIVE DELOZIER

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1 Amend Bill, page 1, lines 1 through 4, by striking out all of
2 said lines and inserting

3 Amending Titles 18 (Crimes and Offenses) and 63 (Professions and
4 Occupations (State Licensed)) of the Pennsylvania
5 Consolidated Statutes, in criminal history record
6 information, further providing for use of records by
7 licensing agencies; providing for preliminary provisions and
8 for Bureau of Professional and Occupational Affairs;
9 consolidating the provisions of Act 48 of 1993; and making a
10 related repeal.

11 Amend Bill, page 1, lines 7 through 18; pages 2 through 13,
12 lines 1 through 30; by striking out all of said lines on said
13 pages and inserting

14 Section 1. Section 9124(a) and (b)(2) of Title 18 of the
15 Pennsylvania Consolidated Statutes are amended and the section
16 is amended by adding a subsection to read:

17 § 9124. Use of records by licensing agencies.

18 (a) State agencies.--Except as provided by this chapter and
19 specifically subsection (a.1), a board, commission or department
20 of the Commonwealth, when determining eligibility for licensing,
21 certification, registration or permission to engage in a trade,
22 profession or occupation, may consider convictions of the
23 applicant of crimes but the convictions shall not preclude the
24 issuance of a license, certificate, registration or permit.

25 (a.1) Application of other law.--The following provisions
26 shall apply to a licensing board or licensing commission under
27 the Bureau of Professional and Occupational Affairs in the
28 Department of State with respect to refusing to issue or renew,
29 suspending, revoking or limiting a license, certificate,
30 registration or permit:

31 (1) 63 Pa.C.S. § 3112 (relating to restricted licenses
32 for barbers and cosmetologists).

33 (2) 63 Pa.C.S. § 3112.1 (relating to restricted licenses
34 for other occupations).

35 (3) 63 Pa.C.S. § 3113 (relating to consideration of

1 criminal convictions).

2 (4) 63 Pa.C.S. § 3114 (relating to juvenile
3 adjudications).

4 (5) 63 Pa.C.S. § 3115 (relating to preliminary
5 determinations by licensing boards and licensing
6 commissions).

7 (6) 63 Pa.C.S. § 3116 (relating to best practices
8 guide).

9 (7) 63 Pa.C.S. § 3117 (relating to list of criminal
10 offenses).

11 (b) Prohibited use of information.--The following
12 information shall not be used in consideration of an application
13 for a license, certificate, registration or permit:

14 * * *

15 (2) Convictions which have been annulled [or expunged.]
16 expunged or subject to limited access under sections 9122.1
17 (relating to petition for limited access) and 9122.2
18 (relating to clean slate limited access).

19 * * *

20 Section 2. Title 63 is amended by adding parts to read:

21 PART I

22 PRELIMINARY PROVISIONS

23 (Reserved)

24 PART II

25 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

26 Chapter

27 31. Powers and Duties

28 CHAPTER 31

29 POWERS AND DUTIES

30 Sec.

31 3101. Scope of chapter.

32 3102. Definitions.

33 3103. Investigatory subpoena power.

34 3104. Reporting of sanctions and criminal proceedings.

35 3105. Hearing examiners.

36 3106. Suspension.

37 3107. Additional powers for commissioner.

38 3108. Civil penalties.

39 3109. Confidentiality of records of licensure boards.

40 3110. Reports.

41 3111. Licensure by endorsement.

42 3112. Restricted licenses for barbers and cosmetologists.

43 3112.1. Restricted licenses for other occupations.

44 3113. Consideration of criminal convictions.

45 3114. Juvenile adjudications.

46 3115. Preliminary determinations by licensing boards and
47 licensing commissions.

48 3116. Best practices guide.

49 3117. List of criminal offenses.

50 3118. Report to General Assembly.

51 § 3101. Scope of chapter.

1 This chapter relates to the powers and duties of the General
2 Counsel, the Bureau of Professional and Occupational Affairs and
3 licensing boards and licensing commissions.

4 § 3102. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Bureau." The Bureau of Professional and Occupational
9 Affairs in the Department of State.

10 "Commissioner." The commissioner of the bureau.

11 "Criminal conviction." Includes a finding of guilty, a plea
12 of guilty or a plea of nolo contendere with respect to a
13 criminal offense of this Commonwealth, or an equivalent crime
14 under the laws of this Commonwealth in effect at the time of the
15 commission of the criminal offense or an equivalent crime in
16 another jurisdiction.

17 "Directly relates." The nature of the criminal conduct for
18 which the person was convicted has a direct bearing on the
19 fitness or ability to perform one or more of the duties or
20 responsibilities necessarily related to the profession, trade or
21 occupation for which the individual seeks licensure.

22 "Disciplinary matter." A matter subject to a licensing
23 board's or licensing commission's jurisdiction in which the
24 licensing board or licensing commission has the authority to
25 refuse, suspend, revoke or limit a license, registration,
26 certificate or permit or to impose a civil penalty or other
27 discipline under an act.

28 "Expunge" or "expungement." Removal of a disciplinary
29 record, accomplished by:

30 (1) permanently sealing the affected record from public
31 access;

32 (2) deeming the proceedings to which the affected record
33 refers as not having occurred; and

34 (3) except with respect to any subsequent application
35 for expungement, affording the affected party the right to
36 represent that no record exists regarding the subject matter
37 of the affected record.

38 "Licensee." A person holding a license, registration,
39 certificate or permit with a licensing board or licensing
40 commission under the bureau.

41 "Licensing board." A departmental or administrative board
42 under the bureau.

43 "Licensing commission." A departmental or administrative
44 commission under the bureau.

45 "Right-to-Know Law." The act of February 14, 2008 (P.L.6,
46 No.3), known as the Right-to-Know Law.

47 § 3103. Investigatory subpoena power.

48 The General Counsel or a designee of the General Counsel
49 shall have the power and duty to issue subpoenas upon
50 application of an attorney responsible for representing the
51 Commonwealth in disciplinary matters before a licensing board or

1 licensing commission for the purpose of investigating alleged
2 violations of the disciplinary provisions administered by a
3 licensing board or licensing commission. The following apply:

4 (1) If disclosure is subject to a privilege provided by
5 law, patient or client records may not be subpoenaed without
6 the consent of the patient or client or without order of a
7 court of competent jurisdiction showing that the records are
8 reasonably necessary for the conduct of the investigation.

9 (2) The court may impose such limitation on the scope of
10 the subpoena as may be necessary to prevent unnecessary
11 intrusion into patient or client confidential information.

12 (3) The attorney responsible for representing the
13 Commonwealth in disciplinary matters before a licensing board
14 or licensing commission is authorized to apply to
15 Commonwealth Court to enforce the subpoenas.

16 (4) Nothing in this section shall be construed to excuse
17 a person from producing documents and records as requested by
18 a licensing board or licensing commission under any other
19 provision of law.

20 § 3104. Reporting of sanctions and criminal proceedings.

21 (a) Duty.--A licensee, as a condition of licensure,
22 certification, registration or holding a permit, shall provide
23 written notice of the following to the appropriate licensing
24 board or licensing commission within 30 days:

25 (1) A disciplinary action taken against the licensee by
26 a licensing agency of another jurisdiction.

27 (2) A finding or verdict of guilt, an admission of
28 guilt, a plea of nolo contendere, probation without verdict,
29 a disposition in lieu of trial or an Accelerated
30 Rehabilitative Disposition of a felony or misdemeanor
31 offense.

32 (b) Sanctions.--A licensing board or licensing commission
33 may take disciplinary action against a licensee who violates
34 this section.

35 § 3105. Hearing examiners.

36 (a) Appointment.--

37 (1) Notwithstanding any other provision of law, the
38 commissioner, after consultation with the licensing boards
39 and licensing commissions, shall appoint hearing examiners as
40 may be necessary to conduct hearings in disciplinary matters
41 before a licensing board or licensing commission.

42 (2) Each licensing board and licensing commission shall
43 have the power to decide if a specific disciplinary matter or
44 type of disciplinary matter is to be heard by the licensing
45 board or licensing commission itself or by a hearing examiner
46 appointed under this subsection.

47 (b) Regulations.--The commissioner, after consultation with
48 the licensing boards and commissions, shall have the power to
49 promulgate regulations specifying the procedural rules to be
50 followed by hearing examiners in the conduct of hearings in
51 disciplinary matters before a licensing board or licensing

1 commission. All proceedings shall be conducted in accordance
2 with the provisions of 2 Pa.C.S. (relating to administrative law
3 and procedure).

4 (c) Powers.--A hearing examiner shall have the power to:

5 (1) Conduct hearings in accordance with applicable
6 statutes, rules and regulations.

7 (2) Issue subpoenas requiring the attendance and
8 testimony of individuals or the production of pertinent
9 records or other papers by persons who, in the opinion of the
10 hearing examiner, have information relevant to any matters
11 pending before the hearing examiner and to issue decisions.

12 (d) Time periods.--

13 (1) In all disciplinary matters before a licensing board
14 or licensing commission, hearings shall commence within 90
15 days after the date on which an answer is filed.

16 (2) A continuance granted prior to the commencement of
17 the hearing shall toll the 90-day requirement by the period
18 of the continuance.

19 (3) A decision shall be rendered within 180 days after
20 the record is closed.

21 (4) The licensing board or licensing commission shall
22 render a final adjudication or decision on any exceptions to
23 the decision of a hearing examiner or any applications for
24 review within 90 days of the filing of the exceptions or
25 applications, provided that a board or commission may
26 delegate to a hearing examiner the authority to render a
27 final adjudication or decision in such cases as deemed
28 appropriate.

29 § 3106. Suspension.

30 (a) Temporary suspension.--A licensing board or licensing
31 commission may temporarily suspend a license, certificate,
32 registration or permit under circumstances as determined by the
33 licensing board or licensing commission to be an immediate and
34 clear danger to public health and safety. The following apply:

35 (1) The licensing board or commission shall issue an
36 order to that effect without a hearing, but upon due notice,
37 to the licensee concerned at the licensee's last known
38 address, which shall include a written statement of all
39 allegations against the licensee.

40 (2) After issuing the order under paragraph (1), the
41 licensing board or licensing commission shall commence formal
42 action to suspend, revoke or restrict the license,
43 certificate, registration or permit of the person concerned
44 as otherwise provided for by law.

45 (3) All actions shall be taken promptly and without
46 delay.

47 (b) Hearing.--Within 30 days following the issuance of an
48 order of temporary suspension, the licensing board or licensing
49 commission shall conduct or cause to be conducted a preliminary
50 hearing to determine whether there is a prima facie case
51 supporting the suspension. The following apply:

1 (1) The licensee whose license, certificate,
2 registration or permit has been temporarily suspended may:

3 (i) be present at the preliminary hearing;

4 (ii) be represented by counsel;

5 (iii) cross-examine witnesses;

6 (iv) inspect physical evidence;

7 (v) call witnesses;

8 (vi) offer evidence and testimony; and

9 (vii) make a record of the proceedings.

10 (2) If it is determined that there is not a prima facie
11 case, the suspended license, certificate, registration or
12 permit shall be immediately restored.

13 (3) The temporary suspension shall remain in effect
14 until vacated by the licensing board or licensing commission,
15 but in no event longer than 180 days.

16 (c) Restoration.--Restoration of a license, certificate,
17 registration or permit shall be made as provided by law in the
18 case of revocation or suspension of the license, certificate,
19 registration or permit.

20 § 3107. Additional powers for commissioner.

21 (a) Membership on boards and commissions.--In addition to
22 the powers and duties imposed under law, the commissioner or a
23 designee of the commissioner shall be a member of each of the
24 licensing boards and licensing commissions except the State
25 Board of Certified Real Estate Appraisers and the Navigation
26 Commission for the Delaware River and its Navigable Tributaries.

27 (b) Designee of Secretary of the Commonwealth.--The
28 commissioner or a designee of the commissioner may serve as the
29 designee of the Secretary of the Commonwealth on the Navigation
30 Commission for the Delaware River and its Navigable Tributaries.

31 § 3108. Civil penalties.

32 (a) Authorization.--

33 (1) The commissioner, after consultation with the
34 licensing boards and licensing commissions, shall have the
35 power to adopt a schedule of civil penalties for operating
36 without a current, registered, unsuspended and unrevoked
37 license, registration, certificate or permit and for
38 violating a provision of the licensing board's or licensing
39 commission's respective acts or regulations relating to the
40 conduct or operation of a business or facility licensed by
41 the licensing boards and licensing commissions. The following
42 apply:

43 (i) The schedule of penalties shall not be
44 applicable to disciplinary matters under the jurisdiction
45 of a licensing board or licensing commission unless that
46 licensing board or licensing commission has approved the
47 schedule.

48 (ii) The commission shall transmit notice of the
49 adoption of the schedule of penalties, guidelines for the
50 imposition of the schedule of penalties and procedures
51 for appeal to the Legislative Reference Bureau for

1 publication in the Pennsylvania Bulletin. The
2 commissioner shall, within two years of the publication
3 of the notice, promulgate a regulation specifying the
4 schedule of penalties, guidelines and procedures.

5 (iii) A penalty shall not exceed the sum of \$1,000
6 per violation.

7 (iv) Duly authorized agents of the bureau shall have
8 the power and authority to issue citations and impose
9 penalties for violations.

10 (v) A penalty imposed may be appealed to a hearing
11 examiner or the licensing board or licensing commission
12 pursuant to the regulations promulgated under section
13 3105(b) (relating to hearing examiners).

14 (vi) If the appeal is initially to a hearing
15 examiner, the relevant licensing board or licensing
16 commission shall render a decision on any exceptions to
17 the decision of the hearing examiner or on any
18 applications for review in accordance with section
19 3105(d).

20 (vii) All proceedings shall be conducted in
21 accordance with the provisions of 2 Pa.C.S. (relating to
22 administrative law and procedure).

23 (2) The commissioner shall expunge the disciplinary
24 record of a licensee, registrant, certificate holder or
25 permit holder if the imposition of discipline was for a
26 violation involving failure to complete continuing education
27 requirements or practicing for six months or less on a lapsed
28 license, registration, certificate or permit, subject to the
29 following:

30 (i) The licensee, registrant, certificate holder or
31 permit holder must make written application to the
32 commissioner for expungement not earlier than four years
33 from the final disposition of the disciplinary record.

34 (ii) The disciplinary record must be the only
35 disciplinary record that the licensee, registrant,
36 certificate holder or permit holder has with either the
37 commissioner or a licensing board or licensing commission
38 under the commissioner's jurisdiction.

39 (iii) The licensee, registrant, certificate holder
40 or permit holder must not be the subject of an active
41 investigation related to professional or occupational
42 conduct.

43 (iv) The licensee, registrant, certificate holder or
44 permit holder must not be in a current disciplinary
45 status, and any fees or fines assessed must be paid in
46 full.

47 (v) The licensee, registrant, certificate holder or
48 permit holder must not have had a disciplinary record
49 previously expunged by the commissioner.

50 (vi) Disciplinary records involving imposition of
51 discipline for violations other than those identified in

1 this paragraph shall not be eligible for expungement.

2 (vii) The licensee, registrant, certificate holder
3 or permit holder shall pay all costs associated with the
4 expungement as established by the commissioner by
5 regulation.

6 (3) Nothing in this subsection shall prohibit a
7 licensing board or licensing commission from using previous
8 discipline for any regulatory purpose or from releasing
9 records of previous discipline upon request from law
10 enforcement or other governmental body as permitted by law.

11 (b) Additional powers.--In addition to the disciplinary
12 powers and duties of the licensing boards and licensing
13 commissions within the bureau under their respective practice
14 acts, licensing boards and licensing commissions shall have the
15 power, respectively:

16 (1) To impose discipline, including, but not limited to,
17 a civil penalty of up to \$10,000 per violation on a licensee
18 or unlicensed person who violates a lawful disciplinary order
19 of the licensing board.

20 (2) To impose discipline, including, but not limited to,
21 a civil penalty of up to \$10,000 per violation on a licensee
22 or unlicensed person who aids and abets the unlicensed
23 practice of a profession, occupation or business.

24 (3) To levy a civil penalty of not more than \$10,000 per
25 violation on a corporation, partnership, institution,
26 association or sole proprietorship which aids and abets an
27 individual in the unlicensed practice of a profession. This
28 penalty shall not, however, be levied against a person solely
29 as a consequence of that person being a patient or client of
30 the unlicensed individual.

31 (4) To levy a civil penalty of not more than \$10,000 per
32 violation on a licensee or unlicensed person who violates a
33 provision of the applicable licensing act or licensing board
34 regulation.

35 (5) To assess against the respondent determined to be in
36 violation of the disciplinary provisions administered by a
37 licensing board or licensing commission in a disciplinary
38 proceeding pending before the licensing board or licensing
39 commission for final determination, as part of the sanction,
40 the costs of investigation underlying that disciplinary
41 action. The cost of investigation shall not include those
42 costs incurred by the licensing board or licensing commission
43 after the filing of formal actions or disciplinary charges
44 against the respondent.

45 (6) To collect all fees, costs, fines and penalties
46 assessed as a result of a disciplinary proceeding before a
47 licensing board or licensing commission.

48 (7) To deny, suspend or revoke a license, registration,
49 certification or permit for failure to pay any penalty, fee,
50 interest or cost assessed as a result of a disciplinary
51 proceeding before a licensing board or licensing commission.

1 (c) Restrictions.--

2 (1) Decisions rendered by a licensing board or licensing
3 commission on any exceptions to the decision of a hearing
4 examiner or on an application for review in accordance with
5 section 3105(d) to impose a civil penalty under this section
6 shall require the same number of votes required for the
7 licensing board or licensing commission to impose a civil
8 penalty under any other act.

9 (2) Nothing in this section shall be construed to
10 restrict the powers and duties under any other act of a
11 licensing board or licensing commission in disciplinary
12 matters, except that a licensing board or licensing
13 commission may not impose a civil penalty under any other act
14 for the same violation for which a civil penalty has been
15 imposed under this section.

16 (d) Status of civil penalty.--A civil penalty, together with
17 any associated fee, interest or cost, imposed under this section
18 or imposed by a licensing board or licensing commission under
19 another act shall be a judgment in favor of the bureau upon the
20 person or the property of the person, whether real or personal,
21 and including any after-acquired property, upon whom the civil
22 penalty is imposed. The Attorney General shall be responsible
23 for enforcing the judgments in courts of competent jurisdiction
24 in accordance with 42 Pa.C.S. (relating to judiciary and
25 judicial procedure).

26 (e) Entry of judgment.--Within 60 months of the final
27 disposition of a disciplinary case, if an unpaid civil penalty,
28 fee, interest and cost of a licensee total \$1,000 or more, the
29 licensing board or licensing commission, or the respective agent
30 of the licensing board or licensing commission, may transmit a
31 copy of the final disposition to the prothonotary of the court
32 of common pleas in the county where the licensee or property of
33 the licensee upon whom the penalty, fee, interest and cost are
34 imposed is located. The following apply:

35 (1) The prothonotary shall enter and docket the copy of
36 the final disposition without requiring payment of costs as a
37 condition precedent to the entry of the copy of the final
38 disposition.

39 (2) The total of the penalty, fee, interest and cost
40 shall be entered as a judgment upon the licensee regardless
41 of whether the amount has been ordered to be paid in
42 installments.

43 (f) Priority of lien.--A lien obtained under this section
44 shall maintain its priority indefinitely, and no writ of revival
45 need be filed.

46 (g) Execution.--A writ of execution may directly issue upon
47 the lien without the issuance and prosecution to judgment of a
48 writ of scire facias, provided that a notice of the filing and
49 the effect of the lien be provided to the licensee not less than
50 10 days before the execution on the lien. Notice may be sent by
51 registered mail to the last known address of the licensee.

1 (h) Exception to execution.--The lien shall have no effect
2 upon any stock of goods, wares or merchandise regularly sold or
3 leased in the ordinary course of business by the licensee
4 against whom the lien has been entered, unless and until a writ
5 of execution has been issued and a levy made upon the stock of
6 goods, wares and merchandise.

7 (i) Satisfaction.--Once a judgment is paid in full to the
8 licensing board or licensing commission, or the respective agent
9 of the licensing board or licensing commission, the licensing
10 board or licensing commission, or the respective agent of the
11 licensing board or licensing commission, shall, within 90 days,
12 notify the prothonotary in writing of receipt of payment in full
13 and request the judgment be noted as satisfied in full.

14 (j) Applicability.--This section shall apply only to
15 disciplinary proceedings commenced on or after August 31, 1993.

16 (k) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection unless the context clearly indicates otherwise:

19 "Unlicensed practice." Any of the following:

20 (1) Practicing a profession or occupation or operating a
21 business for which a license, registration, certificate or
22 permit is required without holding a valid, unexpired,
23 unrevoked or unsuspended authority to do so.

24 (2) Representing to the public or a person, through
25 offerings, advertisements or the use of a title, that the
26 individual is qualified to practice a profession, occupation
27 or business for which a license, registration, certificate or
28 permit is required without holding a valid, unexpired,
29 unrevoked or unsuspended authority to do so.

30 § 3109. Confidentiality of records of licensure boards.

31 (a) General rule.--

32 (1) All records under section 708(b)(17) of the Right-
33 to-Know Law, relating to a noncriminal investigation,
34 including prosecutorial memos and transcripts of depositions,
35 undertaken by the Bureau of Enforcement and Investigation and
36 the Prosecution Division of the Department of State, Office
37 of Chief Counsel on behalf of the licensing boards within the
38 Department of State or concerning a licensure-related
39 complaint filed with the Department of State shall be
40 confidential and privileged.

41 (2) No person who has investigated or has access to or
42 custody of documents, materials or information that are
43 confidential and privileged under this subsection shall be
44 required to testify in a judicial or administrative
45 proceeding unless directed to do so by a court of competent
46 jurisdiction without the written consent of the licensing
47 board that regulates the profession involved.

48 (3) This subsection shall not preclude or limit
49 introduction of the contents of an investigative file or
50 related witness testimony in a hearing or proceeding held
51 before the licensing boards within the Department of State.

1 (4) This section shall not apply to letters to a
2 licensee or other documents that disclose the final outcome
3 of an investigation or to final adjudication or orders issued
4 by the licensure board.

5 (b) Certain disclosure permitted.--

6 (1) Except as provided under subsection (a), this
7 section shall not prevent disclosure of documents, materials
8 or information pertaining to the status of a license, permit
9 or certificate issued or prepared by the licensing boards or
10 the sharing of information with law enforcement authorities
11 or professional licensure regulatory boards in other
12 jurisdictions or information relating to a public
13 disciplinary proceeding or hearing.

14 (2) Any other disclosure of records under section 708(b)
15 (17) of the Right-to-Know Law relating to a noncriminal
16 investigation, including prosecutorial memos and transcripts
17 of depositions by employees or agents of the Department of
18 State, Office of Chief Counsel, Bureau of Professional and
19 Occupational Affairs and the Bureau of Enforcement and
20 Investigation may be made only in furtherance of an
21 investigation or prosecution of alleged violations of
22 applicable licensing statutes, codes or regulations.

23 (3) Violations of this subsection shall subject the
24 employee or agent to administrative discipline, including
25 discharge, suspension or other formal or appropriate
26 disciplinary action.

27 (c) Confidentiality affidavits.--All employees and agents of
28 the Department of State Office of Chief Counsel, Bureau of
29 Professional and Occupational Affairs and the Bureau of
30 Enforcement and Investigation shall execute a confidentiality
31 affidavit that provides that documents, materials or information
32 under subsection (a), obtained by employees and agents of the
33 Department of State, Office of Chief Counsel, Bureau of
34 Professional and Occupational Affairs and the Bureau of
35 Enforcement and Investigation shall be considered confidential
36 and may be disclosed only as permitted under subsections (a) and
37 (b).

38 (d) Waiver prohibited.--A licensing board or licensing
39 commission may not require an applicant to waive any
40 confidentiality provided for under this section as a condition
41 for the approval of a license or any other action of the board.
42 § 3110. Reports.

43 Licensing boards and licensing commissions shall submit
44 annually to the Consumer Protection and Professional Licensure
45 Committee of the Senate and to the Professional Licensure
46 Committee of the House of Representatives a report containing
47 the following:

48 (1) Description of the types of complaints received.

49 (2) Status of cases.

50 (3) Total number of cases and type of disciplinary
51 action taken.

1 (4) Percentage of disciplinary actions in relation to
2 the total number of licensees.

3 (5) Number of closed cases.

4 (6) Average number of days to close a case.

5 (7) Number of revocations and suspensions.

6 (8) Percentage of revocations and suspensions in
7 relation to the total number of licensees.

8 § 3111. Licensure by endorsement.

9 (a) General rule.--Notwithstanding any existing provisions
10 related to licensure by endorsement or licensure by reciprocity
11 in an applicable licensing statute, a licensing board or
12 licensing commission shall issue a license, certificate,
13 registration or permit to an applicant to allow practice in this
14 Commonwealth if, upon application to the licensing board or
15 licensing commission, the applicant satisfies all of the
16 following conditions:

17 (1) Holds a current license, certificate, registration
18 or permit from another state, territory or country and the
19 licensing board or licensing commission determines that
20 state's, territory's or country's requirements are
21 substantially equivalent to or exceed the requirements
22 established in this Commonwealth.

23 (2) Demonstrates competency in the profession or
24 occupation through methods determined by the licensing board
25 or licensing commission, including having completed
26 continuing education or having experience in the profession
27 or occupation for at least two of the five years preceding
28 the date of the application under this section.

29 (3) Has not committed any act that constitutes grounds
30 for refusal, suspension or revocation of a license,
31 certificate, registration or permit to practice that
32 profession or occupation in this Commonwealth unless the
33 licensing board or licensing commission determines, in its
34 discretion, that the act should not be an impediment to the
35 granting of a license, certificate, registration or permit to
36 practice in this Commonwealth.

37 (4) Is in good standing and has not been disciplined by
38 the jurisdiction that issued the license, certificate,
39 registration or permit unless the licensing board or
40 licensing commission determines, in its discretion, that the
41 discipline should not be an impediment to the granting of a
42 license, certificate, registration or permit to practice in
43 this Commonwealth.

44 (5) Pays any fees established by the licensing board or
45 licensing commission by regulation.

46 (b) Provisional endorsement license.--A licensing board or
47 licensing commission may issue a provisional license,
48 certificate, registration or permit to an applicant for
49 licensure by endorsement while the applicant is satisfying
50 remaining requirements for the licensure by endorsement as
51 determined by the licensing board or licensing commission. The

1 holder of a provisional endorsement license issued under this
2 subsection may practice until any of the following occurs:

3 (1) A license, certificate, registration or permit is
4 denied by the licensing board or licensing commission under
5 this section.

6 (2) The expiration of the provisional endorsement
7 license as established by the licensing board or licensing
8 commission by regulation.

9 (3) The holder of the provisional endorsement license
10 fails to comply with the terms of the provisional license.

11 (c) Construction.--Nothing in this section is intended to
12 supersede or replace existing statutory provisions relating to
13 licensure by endorsement or licensure by reciprocity applicable
14 to licensing boards and licensing commissions through their
15 respective enabling statutes.

16 § 3112. Restricted licenses for barbers and cosmetologists.

17 (a) Supplementary provisions.--Notwithstanding any provision
18 of law to the contrary, as an alternative to refusing to issue
19 or renew, suspending, revoking or limiting a license as a result
20 of a finding that an applicant for a barber's license or a
21 cosmetology license lacks the fitness to engage in the practice
22 of barbering under the act of June 19, 1931 (P.L.589, No. 202),
23 referred to as the Barbers' License Law, or in the practice of
24 cosmetology under the act of May 3, 1933 (P.L.242, No.86),
25 referred to as the Cosmetology Law, due to a criminal
26 conviction, or is otherwise ineligible for a license as a barber
27 or cosmetologist as a result of a criminal conviction, the State
28 Board of Barber Examiners or the State Board of Cosmetology may
29 issue a restricted license for a term not less than one year and
30 not more than two years to an applicant for a license under the
31 Barbers' License Law or the Cosmetology Law. The following
32 apply:

33 (1) The State Board of Barber Examiners or the State
34 Board of Cosmetology shall determine the period of time
35 during which the respective applicant shall operate under a
36 restricted license.

37 (2) The State Board of Barber Examiners or the State
38 Board of Cosmetology shall notify the respective applicant of
39 that period of time and the conditions placed on the
40 restricted license under subsection (c).

41 (b) Demonstration of fitness.--Notwithstanding any other
42 provision of law to the contrary and the individual's criminal
43 convictions, an applicant for a restricted license may
44 demonstrate fitness for issuance of a restricted license to
45 practice barbering or cosmetology by introducing evidence of the
46 following, as applicable:

47 (1) While incarcerated, the individual maintained a
48 record of good behavior, including the successful completion
49 of any required rehabilitative programming offered by a
50 county correctional facility or the Department of
51 Corrections.

1 (2) If incarcerated by a county correctional facility or
2 the Department of Corrections and enrolled in a program
3 regarding barbering or cosmetology, the individual has
4 successfully completed the requisite education or training
5 requirements of the program.

6 (3) The individual has not been found to be in violation
7 of probation or parole.

8 (4) The individual has demonstrated a commitment to
9 living a law-abiding life, which may be established by a
10 letter of recommendation from the individual's probation
11 officer, parole officer or appropriate official within the
12 county correctional facility or the Department of
13 Corrections, or any other means, at the discretion of the
14 State Board of Barber Examiners or the State Board of
15 Cosmetology, as applicable.

16 (c) Conditions for restricted license.--The State Board of
17 Barber Examiners or the State Board of Cosmetology shall impose
18 conditions on a holder of a restricted license, including any of
19 the following:

20 (1) Limiting the scope or location of the restricted
21 license holder's practice.

22 (2) Requiring the restricted license holder to be
23 reasonably supervised during business hours by a licensed
24 manager-barber or a licensee designated in charge of the
25 barber shop or a licensed cosmetology teacher or salon owner
26 or designated person in charge of the salon, as applicable.

27 (3) Requiring the restricted license holder to notify
28 the State Board of Barber Examiners or the State Board of
29 Cosmetology, as applicable, in writing as soon as is
30 practicable of a change in the supervisor specified under
31 paragraph (2).

32 (4) Requiring the restricted license holder to abide by
33 any other condition that the State Board of Barber Examiners
34 or the State Board of Cosmetology, as applicable, deems
35 appropriate.

36 (d) Revocation.--A restricted license shall be immediately
37 revoked if any of the following occurs:

38 (1) The restricted license holder is convicted of an
39 offense graded as a misdemeanor or felony in this
40 Commonwealth or a similar or equivalent offense in another
41 jurisdiction following the receipt of the restricted license.

42 (2) The restricted license holder fails to comply with
43 any condition imposed by the State Board of Barber Examiners
44 or the State Board of Cosmetology and specified under
45 subsection (c).

46 (e) Compliance.--Within 30 days of the conclusion of the
47 term of the restricted license, the supervising licensed
48 manager-barber or a licensee designated in charge of the barber
49 shop or a licensed cosmetology teacher or salon owner or
50 designated person in charge of the salon, as appropriate, shall
51 provide written notice to the State Board of Barber Examiners or

1 the State Board of Cosmetology, as to whether the restricted
2 license holder complied with all conditions imposed under
3 subsection (c). If the restricted license holder meets all of
4 the other qualifications for licensure under the Barbers'
5 License Law or the Cosmetology Law, the State Board of Barber
6 Examiners or the State Board of Cosmetology shall issue a
7 license to practice under the Barbers' License Law or the
8 Cosmetology Law, as appropriate.

9 (f) Construction.--Nothing in this section shall be
10 construed to restrict any of the other powers and duties of the
11 State Board of Cosmetology or the State Board of Barber
12 Examiners.

13 § 3112.1. Restricted licenses for other occupations.

14 (a) Occupations other than barbering and cosmetology.--
15 Notwithstanding any provision of law to the contrary, if a
16 county correctional facility or the Department of Corrections
17 offers training in the occupation, other than barbering and
18 cosmetology, which requires the issuance of a license,
19 certificate, registration or permit by the bureau in order to
20 engage in that occupation, the applicable licensing board or
21 licensing commission may issue a restricted license to an
22 applicant as specified in this section as an alternative to
23 refusing to issue or renew, suspending, revoking or limiting a
24 license as a result of a finding that the applicant for a
25 license, certificate, registration or permit lacks the fitness
26 to engage in the occupation due to a criminal conviction or is
27 otherwise ineligible for licensure due to a criminal conviction.
28 The following shall apply:

29 (1) The applicable licensing board or commission shall
30 determine the period of time during which the applicant shall
31 operate under a restricted license. The minimum period of
32 time shall be one year. The maximum period of time shall be
33 two years.

34 (2) The applicable licensing board or licensing
35 commission shall notify the applicant of the time period
36 under paragraph (1) and the conditions placed on the
37 restricted license under subsection (c).

38 (b) Demonstration of fitness.--Notwithstanding any other
39 provision of law to the contrary and the criminal conviction, an
40 applicant for a restricted license may demonstrate fitness for
41 issuance of a restricted license to practice by introducing
42 evidence of the following:

43 (1) While incarcerated, the individual maintained a
44 record of good behavior, including the successful completion
45 of any required rehabilitative programming offered by a
46 county correctional facility or the Department of
47 Corrections.

48 (2) If incarcerated by a county correctional facility or
49 the Department of Corrections and enrolled in a program
50 regarding the occupation for which a restricted license is
51 sought, the applicant successfully completed the requisite

1 education or training requirements of the program.

2 (3) The applicant has not been found to be in violation
3 of probation or parole.

4 (4) The applicant has demonstrated a commitment to
5 living a law-abiding life, which may be established by a
6 letter of recommendation from the applicant's probation
7 officer, parole officer or appropriate official within the
8 county correctional facility or the Department of
9 Corrections, or by any other means, at the discretion of the
10 licensing board or licensing commission, as applicable.

11 (c) Conditions.--The licensing board or licensing commission
12 shall impose conditions on a holder of a restricted license,
13 including:

14 (1) Limiting the scope or location of the restricted
15 license holder's practice.

16 (2) Requiring the restricted license holder to be
17 reasonably supervised during business hours by an individual
18 licensed by the licensing board or licensing commission, as
19 applicable.

20 (3) Requiring the restricted license holder to notify
21 the licensing board or licensing commission, as applicable,
22 in writing as soon as is practicable of a change in the
23 supervisor under paragraph (2).

24 (4) Requiring the restricted license holder to abide by
25 any other condition the licensing board or licensing
26 commission, as applicable, deems appropriate.

27 (d) Revocation.--The restricted license shall be immediately
28 revoked if any of the following occurs:

29 (1) The restricted license holder is convicted of an
30 offense graded as a misdemeanor or felony in this
31 Commonwealth or a similar or equivalent offense in another
32 jurisdiction following the receipt of the restricted license.

33 (2) The restricted license holder fails to comply with
34 any of the conditions imposed by the licensing board or
35 licensing commission, as applicable, under subsection (c).

36 (e) Notice.--Within 30 days of the conclusion of the term of
37 the restricted license, the licensee supervising the holder of
38 the restricted license shall provide written notice to the
39 licensing board or licensing commission, as appropriate, as to
40 whether the restricted license holder complied with all
41 conditions imposed by the licensing board or licensing
42 commission under subsection (c). If the restricted license
43 holder meets all of the other qualifications for licensure under
44 the applicable practice act, the licensing board or licensing
45 commission, as appropriate, shall issue a license to practice
46 that occupation.

47 (f) Construction.--Nothing in this section shall be
48 construed to restrict any of the other powers and duties of the
49 licensing board or licensing commission, as applicable.
50 § 3113. Consideration of criminal convictions.

51 (a) Applicability.--This section shall apply to licensing

boards and licensing commissions notwithstanding the following:

(1) Any other statutory provision to the contrary regarding the consideration of good moral character, crimes of moral turpitude or ethical or honest practice with respect to disqualification of licensure due to criminal conviction.

(2) 18 Pa.C.S. § 9124(c) (relating to use of records by licensing agencies).

(3) Any other statutory provision that disqualifies an individual from holding a license, certificate, registration or permit due to the individual's criminal conviction.

(a.1) Consideration.--A licensing board or licensing commission may not consider the provisions specified under subsection (a) in determining whether an individual qualifies for a license, certificate, registration or permit but instead shall determine the individual's qualification for a license, certificate, registration or permit in accordance with the procedures specified under this section.

(b) Analysis of criminal convictions.--Except as provided in subsections (d), (e) and (f), a licensing board or a licensing commission shall engage in a two-stage analysis of the criminal convictions of the applicant. The following shall apply:

(1) The first stage of the analysis shall determine whether the criminal conviction directly relates to the occupation, trade or profession for which the individual seeks licensure by reviewing the schedule of offenses in section 3117 (relating to list of criminal offenses). If the offense is found on the list of offenses that are directly related to the occupation, trade or profession, the licensing board or licensing commission shall then determine whether licensure of the individual would pose a substantial risk to the health and safety of the individual's patients or clients or the public or a substantial risk of further criminal convictions by conducting the individualized assessment specified in subsection (c). There shall be a rebuttable presumption that licensure of the individual with a criminal conviction that directly relates to the occupation, trade or profession would pose a substantial risk to the health and safety of the individual's patients or clients or the public or a substantial risk of further criminal convictions. The individual may rebut the presumption by showing evidence of rehabilitation, as specified in the factors in subsection (c).

(2) If, after reviewing the schedule of offenses in section 3117, the criminal conviction is determined not to be directly related to the occupation, trade or profession, the licensing board or licensing commission shall proceed to the second stage of the analysis of the criminal conviction. During the second stage of the analysis, the licensing board or licensing commission shall determine whether, due to the nature of the criminal conviction, licensure of the individual would pose a substantial risk to the health and

1 safety of the individual's patients or clients or the public
2 or a substantial risk of further criminal convictions by
3 conducting the individualized assessment specified in
4 subsection (c). The individual may rebut the determination by
5 showing evidence of rehabilitation, as specified in the
6 factors in subsection (c).

7 (c) Individualized assessment.--A licensing board or
8 licensing commission shall conduct an individualized assessment
9 of the individual with respect to criminal convictions and
10 rehabilitation. The licensing board or licensing commission
11 shall only consider the following factors in order to determine
12 whether the individual meets the requirements for issuance of a
13 license, certificate, registration or permit under subsection
14 (b)(1) or (b)(2):

15 (1) Whether the criminal conduct for which the
16 individual was convicted involved an act or threat of harm
17 against the individual. For purposes of this paragraph, the
18 term "harm" includes harm to the victim, the personal
19 property of the victim or reputation of the victim.

20 (2) The facts and circumstances surrounding the criminal
21 conviction.

22 (3) The number of criminal convictions.

23 (4) Increase in age or maturity of the individual since
24 the date of the criminal conviction.

25 (5) The individual's criminal history or lack of
26 criminal history after the date of conviction.

27 (6) Successful completion of education and training
28 activities, including those in a county correctional facility
29 or the Department of Corrections.

30 (7) References from employers or others, including
31 personnel of the county correctional facility or the
32 Department of Corrections.

33 (8) Progress in personal rehabilitation since the
34 conviction.

35 (9) Whether the individual meets all other licensing
36 qualifications of the applicable practice act, including any
37 examination requirements.

38 (10) The individual's criminal history, or lack of
39 criminal history, after the date of the criminal conviction
40 while engaged in the same or similar profession or
41 occupation.

42 (11) Any other factor deemed relevant to the licensing
43 board or licensing commission regarding the fitness of the
44 individual for licensure.

45 (d) Sexual offenses.--When determining eligibility for
46 licensure as a health care practitioner, a licensing board or
47 licensing commission may not issue a license, registration,
48 certificate or permit or otherwise allow an individual to
49 practice as a health care practitioner if the individual has
50 been convicted of a sexual offense. The licensing board or
51 licensing commission may show, by a preponderance of the

1 evidence, that the amount or weight of the controlled substance
2 involved in a conviction meets the requirements for a drug
3 trafficking offense.

4 (e) Crimes of violence.--An individual convicted of a crime
5 of violence as defined in 42 Pa.C.S. § 9714 (relating to
6 sentences for second and subsequent offenses) may be granted a
7 license, registration, certificate or permit by a licensing
8 board or licensing commission if all of the following apply:

9 (1) If the individual was incarcerated, at least three
10 years have elapsed since release from incarceration. The
11 period of three years shall be tolled for a violation of
12 parole.

13 (2) If the individual is serving a sentence other than a
14 period of confinement in a State or county correctional
15 facility, at least three years have elapsed since imposition
16 of sentence.

17 (3) The individual has remained conviction-free during
18 the periods specified in paragraph (1) or (2).

19 (4) The individual demonstrates significant
20 rehabilitation since the criminal conviction.

21 (5) The licensing board or licensing commission
22 determines, by using the factors in subsection (c), except
23 for subsection (c)(8), that licensure of the individual does
24 not pose a substantial risk to the health and safety of the
25 individual's patients or clients or the public or a
26 substantial risk of further criminal convictions.

27 (f) Drug trafficking.--Notwithstanding any provision of law
28 to the contrary, the provisions of the respective practice acts
29 relating to felony drug convictions under the act of April 14,
30 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
31 Device and Cosmetic Act, or a conviction for an offense under
32 the laws of another jurisdiction which, if committed in this
33 Commonwealth, would be a felony under the Controlled Substance,
34 Drug, Device and Cosmetic Act, shall apply to an individual who
35 has been convicted of a drug trafficking offense.

36 (g) Construction.--Nothing in this section shall be
37 construed to restrict any of the other powers and duties of a
38 licensing board or licensing commission in disciplinary or
39 licensure matters.

40 (h) Public information.--Except for name, address and other
41 identifying information, a determination under this section
42 shall be public information.

43 (i) Definitions.--As used in this section, the following
44 words and phrases shall have the meanings given to them in this
45 subsection unless the context clearly indicates otherwise:

46 "Drug trafficking offense." A violation of section 13(a)
47 (14), (30) or (37) of The Controlled Substance, Drug, Device and
48 Cosmetic Act, if the controlled substance or a mixture
49 containing it is:

50 (1) Marijuana, if the amount of marijuana involved is at
51 least 50 pounds or at least 51 live plants.

1 (2) A narcotic drug classified in Schedule I or Schedule
2 II under section 4 of The Controlled Substance, Drug, Device
3 and Cosmetic Act, if the aggregate weight of the compound or
4 mixture containing the substance involved is at least 100
5 grams.

6 (3) Any of the following, if the aggregate weight of the
7 compound or mixture of the substance involved is at least 100
8 grams:

9 (i) Coca leaves.

10 (ii) A salt, compound, derivative or preparation of
11 coca leaves.

12 (iii) A salt, compound, derivative or preparation
13 which is chemically equivalent or identical with any of
14 the substances under subparagraphs (i) and (ii).

15 (iv) A mixture containing any of the substances
16 under subparagraphs (i) and (ii), except decocainized
17 coca leaves or extracts of coca leaves which do not
18 contain cocaine or ecgonine.

19 (4) Any of the following, if the aggregate weight of the
20 compound or mixture of the substance involved is at least 100
21 grams:

22 (i) Methamphetamine.

23 (ii) Phencyclidine.

24 (iii) A salt, isomer or salt of an isomer of
25 methamphetamine or phencyclidine.

26 (iv) A mixture containing:

27 (A) Methamphetamine or phencyclidine.

28 (B) A salt of methamphetamine or phencyclidine.

29 (C) An isomer of methamphetamine or
30 phencyclidine.

31 (D) A salt of an isomer of methamphetamine or
32 phencyclidine.

33 (5) Heroin or a mixture containing heroin, if the
34 aggregate weight of the compound or mixture containing the
35 heroin is 50 grams or greater.

36 (6) A mixture containing 3,4-methylenedioxyamphetamine
37 (MDA); 3,4-methylenedioxymethamphetamine (MDMA); 5-methoxy-
38 3,4-methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-
39 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine.
40 when the aggregate weight of the compound or mixture
41 containing the substance involved is at least 1,000 tablets,
42 capsules, caplets or other dosage units or 300 grams.

43 (7) Fentanyl or a mixture containing fentanyl, if the
44 aggregate weight of the compound or mixture containing the
45 fentanyl is 10 grams or more.

46 (8) Carfentanil or a mixture containing carfentanil, if
47 the aggregate weight of the compound or mixture containing
48 the carfentanil is one gram or more.

49 "Healing arts." The science and skill of diagnosis or
50 treatment in any manner whatsoever of disease or any ailment of
51 the human body.

1 "Health care practitioner." An individual who is authorized
2 to practice some component of the healing arts by a license,
3 certificate, registration or permit issued by a licensing board
4 or licensing commission.

5 "Sexual offense." An act, conspiracy or solicitation to
6 commit any of the following offenses or an equivalent crime in
7 another jurisdiction:

8 (1) 18 Pa.C.S. § 2910 (relating to luring a child into a
9 motor vehicle or structure).

10 (2) Any of the offenses enumerated in 18 Pa.C.S. Ch. 30
11 (relating to human trafficking) if the offense involved
12 sexual servitude.

13 (3) Any of the offenses enumerated in 18 Pa.C.S. Ch. 31
14 (relating to sexual offenses).

15 (4) 18 Pa.C.S. § 4302 (relating to incest).

16 (5) 18 Pa.C.S. § 4304(a)(1) (relating to endangering
17 welfare of children) if the offense involved sexual contact
18 with the victim.

19 (6) 18 Pa.C.S. § 5901 (relating to open lewdness) if the
20 offense involved a minor under 18 years of age.

21 (7) 18 Pa.C.S. § 5902(b) or (b.1) (relating to
22 prostitution and related offenses).

23 (8) 18 Pa.C.S. § 5903 (relating to obscene and other
24 sexual materials and performances) if the offense involved a
25 minor under 18 years of age.

26 (9) 18 Pa.C.S. § 6301(a)(1)(i) (relating to corruption
27 of minors) if the offense involved sexual contact with the
28 victim.

29 (10) 18 Pa.C.S. § 6301(a)(1)(ii).

30 (11) 18 Pa.C.S. § 6312 (relating to sexual abuse of
31 children).

32 (12) 18 Pa.C.S. § 6318 (relating to unlawful contact
33 with minor).

34 (13) 18 Pa.C.S. § 6320 (relating to sexual exploitation
35 of children).

36 (14) 18 Pa.C.S. § 7507.1 (relating to invasion of
37 privacy).

38 § 3114. Juvenile adjudications.

39 Notwithstanding any provision of law to the contrary, when
40 determining whether an applicant is qualified to be issued a
41 license, registration, certificate or permit, a licensing board
42 or licensing commission may not consider the applicant's
43 juvenile adjudications.

44 § 3115. Preliminary determinations by licensing boards and
45 licensing commissions.

46 An applicant with a criminal history who, based on a review
47 of the best practices guide published under section 3116
48 (relating to best practices guide), is unable to determine
49 whether the applicant's criminal record would preclude the
50 issuance of a license, certificate, registration or permit, may
51 file a petition for preliminary review with the licensing board

1 or licensing commission under the bureau seeking a preliminary
2 decision on whether the applicant's criminal history would
3 disqualify the applicant from receiving a license, certificate,
4 registration or permit, subject to the following:

5 (1) If the petition is filed separately from a formal
6 application for a license, certificate, registration or
7 permit, the licensing board or licensing commission shall
8 issue a preliminary decision within 45 days. The preliminary
9 decision shall be limited to a declaration of whether a
10 conviction on the petitioner's criminal history record falls
11 within the set of convictions that the licensing board or
12 licensing commission has previously determined may be
13 directly related to the profession or occupation over which
14 the licensing board or licensing commission has authority.

15 (2) If the licensing board or licensing commission
16 determines that a conviction on the petitioner's criminal
17 history record is directly related to the occupation, trade
18 or profession, the notice of the preliminary decision shall
19 inform the petitioner that the determination is not final or
20 binding as to whether the petitioner qualifies for a license,
21 certificate, registration or permit, and that the petitioner
22 has the opportunity to present evidence of the factors
23 specified in section 3113(c) (relating to consideration of
24 criminal convictions) in connection with any subsequent
25 formal application for a license, certificate, registration
26 or permit. Where appropriate, the notice may also inform the
27 petitioner that a sexual offense, crime of violence or drug
28 trafficking offense may prevent licensure in accordance with
29 section 3113(d), (e) and (f).

30 (3) The licensing board or licensing commission may
31 charge a filing fee, which shall not exceed \$45, to be paid
32 for each petition for preliminary review filed on or after
33 January 1, 2022. The licensing board or licensing commission
34 may establish by regulation reasonable fees which may not
35 exceed an amount sufficient to reimburse the licensing board
36 or licensing commission for the administrative costs
37 associated with processing the petition for preliminary
38 review. The licensing board or licensing commission shall
39 make available forms for petitioners to request in forma
40 pauperis status in connection with a petition. The licensing
41 board or licensing commission may not unreasonably deny in
42 forma pauperis status. A petitioner granted in forma pauperis
43 status shall be permitted to file a petition and receive a
44 preliminary decision without payment of the filing fee.

45 (4) The determination by the licensing board or
46 licensing commission shall be binding, subject to:

47 (i) A review of criminal history record information
48 submitted during the application process.

49 (ii) Section 3113.

50 § 3116. Best practices guide.

51 (a) Development of guide.--Within 180 days of the effective

1 date of this subsection, the Department of State shall, in
2 collaboration with the licensing boards and licensing
3 commissions, develop a guide of best practices for an applicant
4 with a criminal conviction to use when seeking a license,
5 certificate, registration or permit. The following apply:

6 (1) The guide shall be published in both English and
7 Spanish.

8 (2) The guide shall include, at a minimum, a summary of
9 the provisions of the following:

10 (i) Section 3112 (relating to restricted licenses
11 for barbers and cosmetologists).

12 (ii) Section 3112.1 (relating to restricted licenses
13 for other occupations).

14 (iii) Section 3113 (relating to consideration of
15 criminal convictions).

16 (iv) Section 3114 (relating to juvenile
17 adjudications).

18 (v) Section 3115 (relating to preliminary
19 determinations by licensing boards and licensing
20 commissions).

21 (vi) Section 3117 (relating to list of criminal
22 offenses).

23 (b) Publication and distribution.--Within 180 days of the
24 effective date of this subsection, the Department of State shall
25 publish the guide under subsection (a) on its publicly
26 accessible Internet website and shall provide a written copy
27 upon request. The written copy of the guide shall be provided
28 without cost to the person requesting the guide.

29 § 3117. List of criminal offenses.

30 (a) Duty of commissioner.--After consultation with the
31 licensing boards and licensing commissions, the commissioner
32 shall have the power and duty to publish a schedule of criminal
33 convictions that may constitute grounds to refuse to issue,
34 suspend or revoke a license, certificate, registration or permit
35 for each occupation or profession under the respective practice
36 acts. The following shall apply:

37 (1) The schedule shall indicate which offenses are those
38 that the licensing board or licensing commission deems as
39 directly relating to the occupation, trade or profession.

40 (2) The schedule shall indicate the licensing board and
41 licensing commission responsible for licensure of each
42 occupation or profession.

43 (3) Within 180 days of the effective date of this
44 subsection, the commissioner shall transmit notice of the
45 completion of the schedule to the Legislative Reference
46 Bureau for publication in the Pennsylvania Bulletin.

47 (4) Within two years of the publication under paragraph
48 (3), the commissioner shall transmit notice of a regulation
49 to the Legislative Reference Bureau for publication in the
50 Pennsylvania Bulletin. The regulation shall be subject to the
51 act of June 25, 1982 (P.L.633, No.181), known as the

1 Regulatory Review Act.

2 (5) The commissioner shall submit a regulation to update
3 the schedule of criminal convictions as often as the
4 commissioner deems appropriate to reflect new statutory
5 enactments of the General Assembly affecting the schedule.

6 (b) Public comment period.--Within 120 days of the
7 publication of the schedule in the Pennsylvania Bulletin under
8 subsection (a), the commissioner shall submit initial proposed
9 regulations to the Independent Regulatory Review Commission
10 under section 5 of the Regulatory Review Act.

11 (c) Dissemination.--Within 180 days of the effective date of
12 this subsection, the schedule of offenses in subsection (a)
13 shall be provided in writing to each applicant for a license,
14 certificate, registration or permit issued by a licensing board
15 or licensing commission as part of the application and shall be
16 made part of the best practices guide under section 3116
17 (relating to best practices guide). The following shall apply:

18 (1) Within 180 days of the effective date of this
19 subsection, the schedule shall be published on the publicly
20 accessible Internet website of the Department of State.

21 (2) The schedule of criminal convictions shall be
22 published in both English and Spanish.

23 (3) Notice that the list of criminal offenses will
24 change based upon new enactments by the General Assembly
25 shall be provided on the publicly accessible Internet website
26 of the Department of State in writing as part of the
27 application and in the best practices guide.

28 (d) Application.--The schedule shall be used by the
29 licensing boards and licensing commissions when:

30 (1) preparing preliminary determinations under section
31 3116;

32 (2) determining which criminal convictions may result in
33 discipline of a licensee; and

34 (3) determining whether a criminal conviction may result
35 in refusing to issue a license, certificate, registration or
36 permit under section 3113 (relating to consideration of
37 criminal convictions).

38 § 3118. Report to General Assembly.

39 (a) Report required.--Within two years after the effective
40 date of this section and every four years thereafter, the
41 Secretary of the Commonwealth shall issue a written report
42 regarding the implementation and effectiveness of the following:

43 (i) Section 3112 (relating to restricted licenses
44 for barbers and cosmetologists).

45 (ii) Section 3112.1 (relating to restricted licenses
46 for other occupations).

47 (iii) Section 3113 (relating to consideration of
48 criminal convictions).

49 (iv) Section 3114 (relating to juvenile
50 adjudications).

51 (v) Section 3115 (relating to preliminary

1 determinations by licensing boards and licensing
2 commissions).
3 (vi) Section 3116 (relating to best practices
4 guide).
5 (vii) Section 3117 (relating to list of criminal
6 offenses).
7 (b) Submittal of report.--The report under subsection (a)
8 shall be submitted to the following:
9 (1) The President pro tempore of the Senate.
10 (2) The chairperson and minority chairperson of the
11 Consumer Protection and Professional Licensure Committee of
12 the Senate.
13 (3) The chairperson and minority chairperson of the
14 Judiciary Committee of the Senate.
15 (4) The Speaker of the House of Representatives.
16 (5) The chairperson and minority chairperson of the
17 Judiciary Committee of the House of Representatives.
18 (6) The chairperson and minority chairperson of the
19 Professional Licensure Committee of the House of
20 Representatives.
21 (c) Contents of report.--The report under subsection (a)
22 shall include the following:
23 (1) The number of applications for a license,
24 certificate, registration or permit that each licensing board
25 and licensing commission receives each year.
26 (2) The number of applicants with criminal convictions
27 that submit applications to the State Board of Barber
28 Examiners and the State Board of Cosmetology, including the
29 following:
30 (i) The number of applicants that are issued a
31 restricted license under section 3112.
32 (ii) The number of applicants that are denied a
33 restricted license under section 3112 and the reasons for
34 the denials.
35 (iii) The number of restricted license holders that
36 are issued a license to practice under the act of June
37 19, 1931 (P.L.589, No.202), referred to as the Barbers'
38 License Law, or the act of May 3, 1933 (P.L.242, No.86),
39 referred to as the Cosmetology Law, following the
40 restricted license term.
41 (iv) The number of restricted licenses that are
42 revoked during the restricted license term under section
43 3112(d) and the reasons for the revocations.
44 (3) The number of applicants that are denied licenses,
45 certificates, registrations and permits each year by the
46 licensing boards and licensing commissions as a result of
47 criminal convictions.
48 (4) Whether to amend any provision of this chapter.
49 (d) Public record.--The report under subsection (a) shall be
50 a public record under the Right-to-Know Law.
51 Section 3. Repeals are as follows:

1 (1) The General Assembly declares that the repeal under
2 paragraph (2) is necessary to effectuate the addition of 63
3 Pa.C.S. Ch. 31.

4 (2) The act of July 2, 1993 (P.L.345, No.48), is
5 repealed.

6 Section 4. The addition of 63 Pa.C.S. Ch. 31 is a
7 continuation of the act of July 2, 1993 (P.L.345, No.48). The
8 following apply:

9 (1) Except as otherwise provided in 63 Pa.C.S. Ch. 31,
10 all activities initiated under the act of July 2, 1993
11 (P.L.345, No.48), shall continue and remain in full force and
12 effect and may be completed under 63 Pa.C.S. Ch. 31. Orders,
13 regulations, rules and decisions which were made under the
14 act of July 2, 1993 (P.L.345, No.48), and which are in effect
15 on the effective date of section 3 of this act shall remain
16 in full force and effect until revoked, vacated or modified
17 under 63 Pa.C.S. Ch. 31. Contracts, obligations and
18 collective bargaining agreements entered into under the act
19 of July 2, 1993 (P.L.345, No.48), are not affected nor
20 impaired by the repeal of the act of July 2, 1993 (P.L.345,
21 No.48).

22 (2) Except as set forth in paragraph (3), any difference
23 in language between 63 Pa.C.S. Ch. 31 and the act of July 2,
24 1993 (P.L.345, No.48), is intended only to conform to the
25 style of the Pennsylvania Consolidated Statutes and is not
26 intended to change or affect the legislative intent, judicial
27 construction or administration and implementation of the act
28 of July 2, 1993 (P.L.345, No.48).

29 (3) Paragraph (2) does not apply to the addition of the
30 following provisions:

31 (i) The definition of "criminal conviction" in 63
32 Pa.C.S. § 3102.

33 (ii) 63 Pa.C.S. § 3112.

34 (iii) 63 Pa.C.S. § 3112.1.

35 (iv) 63 Pa.C.S. § 3113.

36 (v) 63 Pa.C.S. § 3114.

37 (vi) 63 Pa.C.S. § 3115.

38 (vii) 63 Pa.C.S. § 3116.

39 (viii) 63 Pa.C.S. § 3117.

40 (ix) 63 Pa.C.S. § 3118.

41 Section 5. The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,
42 3114, 3115, 3116, 3117 and 3118 shall apply to official acts and
43 matters, including disciplinary matters, related to the issuance
44 of licenses, certificates, registrations or permits by licensing
45 boards or licensing commissions beginning on or after 180 days
46 after the effective date of this section.

47 Section 6. This act shall take effect as follows:

48 (1) The addition of 63 Pa.C.S. §§ 3112, 3112.1, 3113,
49 3114 and 3115 shall take effect in 180 days.

50 (2) The remainder of this act shall take effect
51 immediately.