

Rep. McGuire, Merr. 29
Rep. Hansen, Hills. 22
April 19, 2018
2018-1671h
10/05

Amendment to SB 589-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to authorizing petitions to state licensing boards for review of an individual's
4 criminal record concerning disqualification for licensure.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7
8 1 New Section; Occupations and Professions; Petitions for Review of a Criminal Record. Amend
9 RSA 332-G by inserting after section 12 the following new section:

10 332-G:13 Petition for Review of a Criminal Record.

11 I. The right of an individual to pursue an occupation is a fundamental right.

12 II. An individual with a criminal record may petition a board or commission at any time,
13 including before obtaining any required education or training, for a determination of whether the
14 individual's criminal record will disqualify the individual from obtaining state recognition.

15 III. The individual shall include in the petition the individual's criminal record or authorize
16 the board or commission to obtain the individual's criminal record.

17 IV. The individual may include additional information about the individual's current
18 circumstances, including the time since the offense, completion of the criminal sentence, other
19 evidence of rehabilitation, testimonials, employment history, and employment aspirations.

20 V. The board or commission is authorized to determine whether the individual's criminal
21 record disqualifies the individual from obtaining state recognition.

22 VI. Notwithstanding any other statute or rule, the board or commission may find the
23 individual's criminal record disqualifies the individual from obtaining state recognition only if:

24 (a) The individual's criminal record includes a conviction for a felony or violent
25 misdemeanor; and

26 (b) The board or commission concludes the state has an important interest in protecting
27 public safety that is superior to the individual's right. The board or commission may make this
28 conclusion only if it determines, by clear and convincing evidence at the time of the petition, that:

29 (1) The specific offense for which the individual was convicted is substantially
30 related to the state's interest;

31 (2) The individual, based on the nature of the specific offense for which the
32 individual was convicted and the individual's current circumstances in paragraph IV, is more likely

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1 to re-offend by virtue of having the license than if the individual did not have the license; and

2 (3) A re-offense will cause greater harm than it would if the individual did not have
3 the license.

4 VII. The board or commission shall issue its determination within 90 days after the board
5 or commission receives the petition. The determination shall be in writing and include the criminal
6 record, findings of fact, and conclusions of law.

7 VIII. If the board or commission determines the state's interest is superior to the
8 individual's right, the board or commission may advise the individual of actions the individual may
9 take to remedy the disqualification. The individual may submit a revised petition reflecting the
10 completion of the remedies at any time after 90 days following the board's or commission's
11 judgment.

12 IX. The individual may appeal the determination in paragraph VII as provided for in RSA
13 541-A.

14 X. The individual may submit a new petition to the board or commission at any time after 2
15 years following a final judgment in the initial petition.

16 XI. The board or commission may rescind its determination at any time if the individual is
17 convicted of an additional offense that the board or commission determines meets the elements in
18 paragraph VI.

19 XII. The board or commission may charge a fee to recoup its costs not to exceed \$100 for
20 each petition.

21 XIII. The office of professional licensure and certification shall establish an annual
22 reporting requirement of the (a) number of applicants petitioning each board or commission, (b) the
23 numbers of each board's or commission's approvals and denials, (c) the type of offenses for which
24 each board or commission approved or denied the petitions, and (d) other data the office determines.
25 The office will compile and publish annually a report on a searchable public website.

26 2 Effective Date. This act shall take effect 60 days after its passage

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AMENDED ANALYSIS

This bill establishes a procedure for individuals to petition a state board or commission for occupational or professional licensure for a determination of whether the individual's criminal record will disqualify the individual from obtaining state recognition for the occupation or profession.