



2021 STATE LEGISLATIVE WATCHLIST

Last updated: March 9, 2021

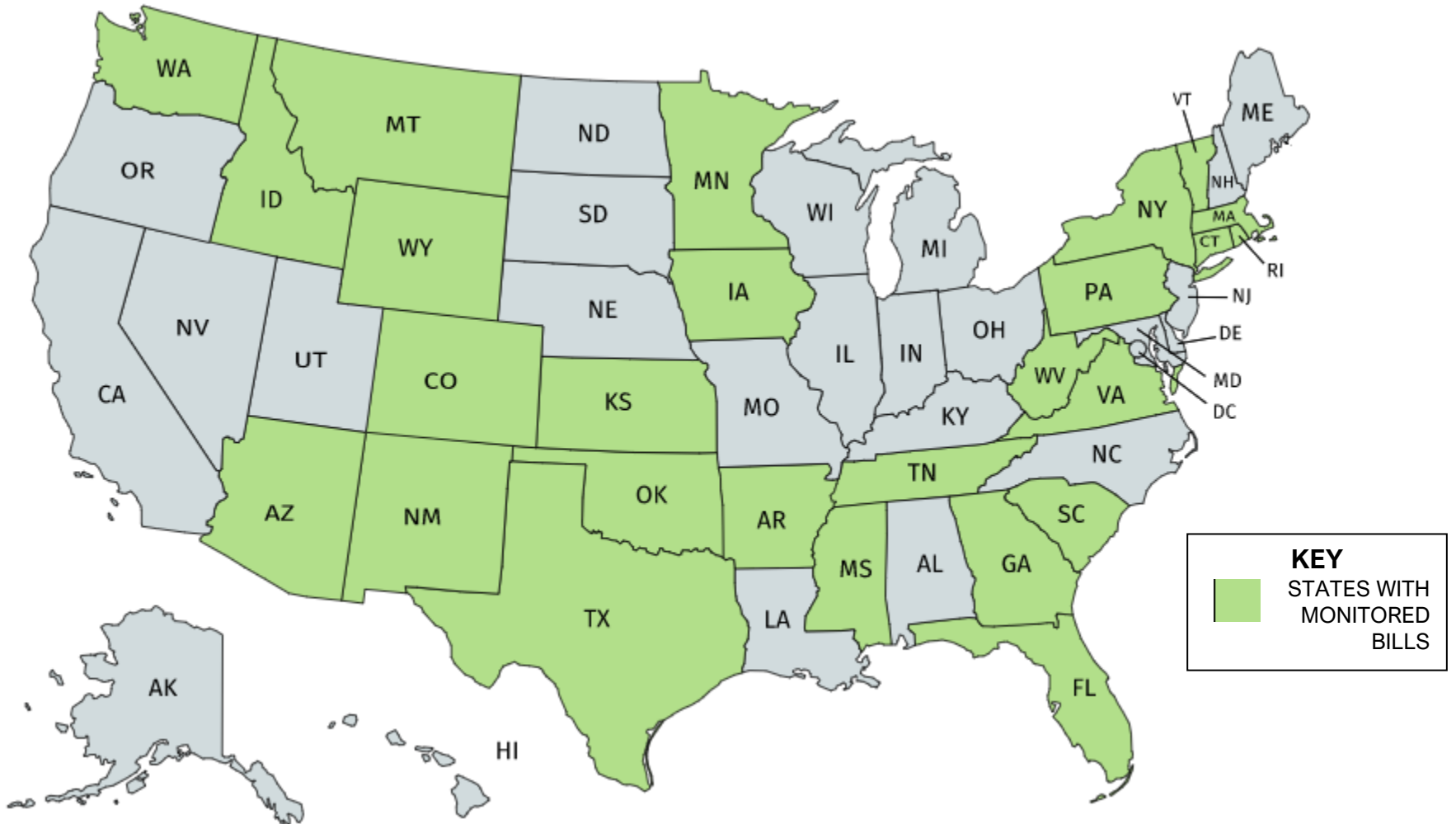


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Total Bills Monitored	Total States with Monitored Bills	Total Ex-Offender Reentry Bills	Total Review and Repeal Bills	Total Apprenticeship Bills	Total Limited Consumer Choice Bills	Total Right to Earn a Living Bills	Total Miscellaneous Bills
61	26	29	15	4	1	3	12

KEY

 = High Priority

2020 = Carryover bill from 2020 Watchlist

REPEAT = Reintroduced bill from the 2020 Watchlist

NEW = Bill summarized for the first time in current version of Watchlist

Dead	
Under consideration in one chamber	
Passed one chamber and under consideration in the other	
Awaiting governor's signature	
Enacted	

Arizona	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 11 – April 23, 2021		No


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AZ	HB 2067 *REPEAT*	01/14/2021	Bret Roberts (R)	Passed House (03/01/2021); Senate Second Reading (03/04/2021)	In Senate	Amend	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Note: This bill is a reintroduction of HB 2402—monitored on the 2020 watchlist—which died when the AZ legislature adjourned sine die. • Amends Arizona law (Section 13-905) that allows a person convicted of a criminal offense to apply to have their judgment of guilt set aside and requires a court that grants an application to set aside a guilty judgment to include a certificate of second chance if the person: <ul style="list-style-type: none"> ○ Was convicted of a misdemeanor; ○ Was convicted of a class 4, 5, or 6 felony and at least 2 years have elapsed since they fulfilled the conditions of probation or sentence; or ○ Was convicted of a class 2 or 3 felony and at least 5 years have elapsed since the person fulfilled the conditions of probation or sentence. • A certificate of second chance: <ul style="list-style-type: none"> ○ Releases the person from all barriers and disabilities in obtaining an occupational license resulting from the conviction, if they are “otherwise qualified” ○ “Is not a recommendation or sponsorship for a promotion of the person who possesses the certificate of second chance when applying for an occupational license, employment or housing” • Permits the state or the victim to object to an application to have a judgement of guilt set aside. 					

Comments and Proposed Changes	<ul style="list-style-type: none"> Add a safe harbor provision: “nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AZ	HB 2319 *REPEAT*	01/26/2021	Ben Toma (R)	Passed House (02/11/2021) Consent Calendar – No, Reported proper for consideration out of Rules Committee (03/08/2021)	In Senate	Amend	Medium

Bill Summary	<ul style="list-style-type: none"> Category: Ex-offender Reentry Note: This bill is a reintroduction of HB 2359 —monitored on the 2020 watchlist—which died when the AZ legislature adjourned sine die. Amends Title 41, Chapter 6, Article 11, of the Arizona Revised Statutes. Prohibits an agency from denying a regular or provisional license to “an otherwise qualified applicant” who has been convicted of criminal drug offenses (ranging from marijuana to manufacture of meth to unauthorized use or possession of prescription drugs). Defines an “occupational license” as “any agency permit, certificate, approval, registration, or charter or any similar form of permission that allows an individual to use an occupational title or work in a lawful occupation, trade, or profession.” Exempts the following entities: <ul style="list-style-type: none"> The State Board of Education for the purposes of certification of persons. A health profession regulatory board; The Department of Health Services; A law enforcement agency and the Arizona Peace Officer Standards and Training Board.
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Comments and Proposed Changes	<ul style="list-style-type: none"> This bill is far too broad, prohibiting the denial of a license to any individual convicted of any drug crime, ranging from the minor (e.g., possession of marijuana for personal use) to the major (running a meth distribution ring) to the job-related (abusing prescription privileges to distribute opioids to addicts) to the safety-related (a conviction for opioid use that results from an active substance abuse addiction). Change “Notwithstanding any other law, an agency may not deny to an otherwise qualified applicant who has been convicted of an offense that involves a violation of title 13, chapter 34 or 34.1 or an offense committed in another jurisdiction that has the same elements as an offense listed in title 13, chapter 34 or 34.1 either of the following” to “A qualified applicant convicted of an offense that involves a violation of title 13, chapter 34 or 34.1 or an offense committed in another jurisdiction that has the same elements as an offense listed in title 13, chapter 34 or 34.1 may not be disqualified by an agency from the following solely on the basis of the conviction if (i) the individual has completed all sentences for the conviction, (ii) the individual has not reoffended since the conviction, (iii) the individual has no pending charges, (iv) if the conviction was related to substance abuse, the individual has provided evidence establishing rehabilitation and the ability to practice the profession safely and without substance abuse, and (v) the offense does not relate to the practice of the occupation or pose a danger to members of the public the individual would encounter in the practice of the occupation.” Add a safe harbor provision: “Nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AZ	SB 1218  *REPEAT*	01/20/2021	Tyler Pace (R)	Passed Senate (02/04/2021) House Second Reading (02/25/2021)	In House	Amend	High
Bill Summary		<ul style="list-style-type: none"> Category: Review and Repeal Note: This bill is a reintroduction of SB 1142—monitored on the 2020 watchlist—which died when the AZ legislature adjourned sine die. Amends the Arizona statute on “nonhealth professions; occupations; regulations.” Permits the state to regulate a profession or occupation—in the “least restrictive manner”—only if <u>all</u> of the following apply <ul style="list-style-type: none"> There is credible evidence of harm that the unregulated practice threatens the public health, safety, or welfare in the state; The actual or anticipated public benefit of the regulation clearly exceeds the cost on consumers; businesses, and individuals; 					

- The public needs and can be reasonably expected to benefit from government regulation; and
- The public cannot be effectively protected by less restrictive regulations.

- Adds the “extent to which the level of regulation exercised by [an] agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate and, if the agency administers an occupational regulation [...], the extent to which the occupational regulation meets the requirements of section 41-3502 [on regulating nonhealth professions and occupations; criteria]” to the enumerated factors that each committee of reference, must consider in determining the need for continuation or termination of each agency.
- Requires the committee of reference to deliver a final sunset review report, which, if the state agency administers an occupational regulation, includes one or more of the following recommendations: (1) repeal the occupational license; (2) convert the occupational license to a less restrictive regulation; and/or (3) instruct the state agency to seek legislation or adopt rules to reflect the committee of reference's recommendation to: (i) impose less restrictive regulations than occupational licenses; (ii) change the requisite personal qualifications of an occupational license.; or (iii) redefine the scope of practice in an occupational license.
- Prohibits regulation for “the exclusive purpose of protecting a profession or occupation from economic competition.”
- Permits the legislative committee of reference to request information from state agencies that contract with individuals in regulated occupations and others with knowledge of the occupation, labor market economics or other factors.
- Requires the legislative committee of reference to provide its findings and recommendations to the standing committee to which the proposed legislation is assigned and the standing committee shall address (1) the type of regulations, if any, that are appropriate and (2) if applicable, the scope of practice and requisite personal qualifications that are appropriate for a government certification or occupational license.
- Provides that the bill does “not preempt federal regulations or require a private certification organization to grant or deny private certification to an individual.”
- Defines "government certification" as “a voluntary program in which this state grants nontransferable recognition to an individual who meets personal qualifications that are established by law.”
- Defines "private certification" as a “voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications that are established by the private organization” and lists it as the third “less restrictive” form of regulation.

<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • As with other review and repeal bills that adopt “least restrictive” requirements, this bill is a threat to continued licensure requirements for private certification and could lead to weakening of licensure requirements that protect the public, and on which private certification organizations of all kinds (voluntary and regulated) rely. • Add “nothing in this chapter shall be construed to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • The definition of “private certification” should be revised to state that “‘Private Certification’ means “a nontransferable recognition granted to an individual by a private organization in which the individual meets personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a specified level of knowledge and skill required to meet recognized standards in the profession, as established by the private organization.” While there are many reputable and legitimate private certification organizations that credential qualified individuals, the current definition in the bill opens the door to individuals purchasing non-substantive “certifications” that are not recognized in the relevant field and that do not measure competency in the occupation. • Add Section 41-3502(H): “Notwithstanding any other provision of Section B, C, and D, no individual shall be restricted from using the title “certified” or the title “registered” to the extent that title reflects a credential held by the individual that was issued by a private certification organization that confers credentials to individuals meeting the qualifications set by the organization’s certification or certificate program.” • Add “Notwithstanding other provisions in this chapter, the state may regulate a profession or occupation and impose licensure requirements for practice of that occupation if the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.” • Amend Section 41-3502(B)(1) to replace “there is credible evidence of harm that the unregulated practice threatens the public health, safety or welfare in this state” with “it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is recognizable and not remote or speculative.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AZ	HB 2787 	02/08/2021	Judy Burges (R)	Passed House (03/04/2021); Senate First Reading, Assigned to Commerce	In Senate	Amend	High

				Committee, Assigned to Rules Committee (03/08/2021)			
Bill Summary	<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Amends Sections 1-215, 41-1093 and 41-1093.04, Arizona Revised Statutes. • Provides that “Notwithstanding any other law or rule, the agency may determine that the person’s criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if the agency concludes that the state has an important interest in protecting public safety that is superior to the person’s right and either of the following applies: <ul style="list-style-type: none"> 1. The person was convicted of any of the following, the conviction occurred within seven years before the date of the petition, excluding any period of time that the person was imprisoned in the custody of the state department of corrections, and the conviction has not been set aside: <ul style="list-style-type: none"> (a) A felony offense. (b) A violent crime as defined in section 13-901.03. (c) An offense included in title 13, chapter 20, 21 or 22 or section 13-2310 or 13-2311 if the license, permit, certificate or other state recognition is for an occupation in which the applicant would owe a fiduciary duty to a client. 2. The person was, at any time, convicted of either of the following: <ul style="list-style-type: none"> (a) An offense that a law specifically requires the agency to consider when issuing a license, permit, certificate or other state recognition and the conviction has not been set aside. (b) A dangerous offense as defined in section 13-105, a serious offense as defined in section 13-706, a dangerous crime against children as defined in section 13-705 or an offense included in title 13, chapter 14 or 35.1, and the conviction has not been set aside. • Defines “moral turpitude” as an offense, whether a misdemeanor or felony, that is related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter or a sexual offense that requires the individual to register. • Amends what the state must determine by clear and convincing evidence to conclude that a person’s criminal record disqualifies them from obtaining a license, permit, certificate, or other state recognition to add that the specific offense “specifically and directly relates to the duties and responsibilities of the occupation.” 						

	<ul style="list-style-type: none"> • Requires the agency to consider the following when determining whether the person’s criminal record disqualifies the person based on a clear and convincing showing: <ul style="list-style-type: none"> ○ The nature and seriousness of the crime for which the person was convicted. ○ The passage of time since the person committed the crime. ○ The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation. ○ Evidence of rehabilitation or treatment undertaken by the person that might mitigate against a direct relation to the ability, capacity and fitness required to perform the duties and discharge the responsibilities of the occupation. • Prohibits the agency from considering the following when determining whether a criminal record disqualifies the person from obtaining a license, permit, certificate, or other state recognition: <ul style="list-style-type: none"> ○ Nonconviction information, including information related to a deferred adjudication, participation in a diversion program, or an arrest that was not followed by a conviction. ○ A conviction that has been sealed, dismissed, expunged, or pardoned. ○ A juvenile adjudication. ○ A nonviolent misdemeanor.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • This legislation would prohibit licensing agencies from considering criminal convictions that indicate an individual is a threat to public health or welfare: only public safety is deemed worth protecting. Even then, no nonviolent misdemeanor (categories that include theft and fraud) may be considered, and criminal convictions must be disregarded if more than seven years have elapsed since the prison sentence was served. The state must also satisfy a “clear and convincing” evidence standard. • “Specifically and directly relates to the duties and responsibilities of the occupation” provides insufficient protections to the public. Some crimes outside the scope of practice nonetheless indicate that the individual poses a threat to the public; a former embezzler from a civic association may be denied a licensed as a certified public accountant, for example, and an individual convicted of distributing child pornography may appropriately be denied a teaching license, even if neither crime occurred in connection with the practice of those professions. • Add to Sec. 3 (E) a new subsection (3): “The circumstances of the offense and the nature of the occupation would create an unreasonable risk to public health, safety, or welfare for an ex-offender to practice the licensed profession.” • Provide that “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor shall it impair the right of private certification organizations to establish and enforce eligibility criteria, ethics codes, or disciplinary policies. In addition,

	<p>nothing in this chapter shall be construed to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”</p> <ul style="list-style-type: none"> • Change “clear and convincing evidence” standard to “preponderance of the evidence” standard. • Suggest that the approach of Pennsylvania Act 53 be followed instead.
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AZ	SB 1754	02/03/2021	Martin Quezada (D)	Senate Second Reading (02/04/2021)	In Senate	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Apprenticeship • Directs “regulating authorities” to “establish criteria necessary for granting licenses, certificates or registrations” through apprenticeship programs, including the following: <ul style="list-style-type: none"> ○ Completing a U.S. DOL-approved or Dept. of Economic Security-approved apprenticeship program in the professional area in which the applicant seeks licensure, certification, or registration. ○ If an exam is required by the regulating authority, successful completion of an examination for licensure, certification, or registration with the same passing score as an applicant from a vocational or trade school. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. 					

Arkansas	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 11 – Apr. 30, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AR	HB 1520	02/22/2021	Fred Allen (D) Linda Chesterfield (D)	Referred to the PUBLIC HEALTH, WELFARE AND LABOR COMMITTEE (02/22/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Amends Arkansas Code § 17-3-102(b) to add section (3) providing that the requirements for a waiver for license disqualification or revocation are not required for license renewal if an individual has been convicted of a crime and has either: <ul style="list-style-type: none"> ○ Completed the waiver requirements at his or her initial licensure; or ○ Been licensed in Arkansas before the enactment of Arkansas Code § 17-3-102(a) (which lists offenses which disqualify individuals from licensure). • Amends Arkansas Code § 17-3-102(g) to add section (2) providing that disqualification based on a disqualifying offense does not apply to an individual who holds a valid license on or before July 24, 2019, but failed to renew his or her license for any reason. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • This bill is a good vehicle to amend § 17-3-102, which currently prohibits licensing agencies in Arkansas from disqualifying applicants from licensure if more than five years have elapsed since conviction of a crime that does not have violent or sexual elements. Given that the statute already requires individual consideration of whether a licensing entity should waive disqualification for an applicant with a criminal record, preventing the licensing agency from even considering the criminal record makes little sense. An applicant whose conviction occurred 4 years and 11 months prior to applying for a license would need to present evidence of rehabilitation, but the passage of an additional month would mean that the licensing agency was barred from disqualifying the applicant on the basis of the conviction. • Instead, the bill should amend § 17-3-102(c) and (d) as follows: <ul style="list-style-type: none"> (c) If an individual has a valid criminal conviction for an offense that could disqualify the individual from receiving a license, the disqualification shall not be considered for the licensing entity should treat it as a significant factor favoring a waiver if more than five (5) years have passed from the date of conviction or incarceration or on which probation ends, whichever date is the latest, if and the individual: <ul style="list-style-type: none"> (A) Was not convicted for committing a violent or sexual offense; and (B) Has not been convicted of any other offense during the five-year disqualification period and has no pending charges. (d) A licensing entity shall not, as a basis upon which a license may be granted or denied: 					

	<p>(1) Use vague or generic terms, including without limitation the phrase "moral turpitude" and "good character"; or</p> <p>(2) Consider arrests without a subsequent conviction, if no charges stemming from the arrest are pending at the time the application is under consideration.</p>
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
AR	HB 1553 *NEW*	02/24/2021	Bart Hester (R)	Amendment No. 1 read and adopted and the bill ordered engrossed. Placed on second reading for the purpose of amendment. (03/09/2021)	In House	Amend	Medium

Bill Summary	<ul style="list-style-type: none"> • Category: Apprenticeship • Titled the “Earn and Learn Act of 2021.” • Defines “apprenticeship” as a program that meets the federal guidelines set out in 29 C.F.R. Part 29, including industry-recognized programs. • Requires a licensing entity to grant a license to an applicant who: <ul style="list-style-type: none"> ○ Completes an apprenticeship in the licensed occupation or profession; ○ Passes an examination – with the same score required for standard licensing processes – if deemed necessary by the licensing entity; and <ul style="list-style-type: none"> ▪ If an exam is not required for the standard licensing process, it is not required for an apprenticeship applicant. ○ Does not have a disqualifying criminal record, as determined by the licensing entity under state law. • Requires a licensing entity that denies a license to an applicant who completes an apprenticeship program to provide a written denial explaining the reason for denial, “such as whether the licensing entity determined that the applicant’s apprenticeship program does not correspond to the profession or occupation or level of license for which the applicant applied.” • Requires licensing agencies to promulgate rules to implement the Act.
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Comments and Proposed Changes	<ul style="list-style-type: none">• Apprenticeship provisions could create loophole to certification requirements in licensure laws. Therefore, add a safe harbor provision 17-4-104 (f) “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”
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Colorado	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 13 – May 12, 2021	Mar. 3, 2021	No


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
CO	SB 21-040	02/16/2021	Ray Scott (R)	Passed Senate (03/08/2021); Senate Third Reading – No Amendments (03/08/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Prohibits a regulator from considering an event in an applicant’s driver’s history when determining whether to issue to the applicant a new, renewal, reactivated, or reinstated license, certification, or registration unless the event occurred within 3 years before the application was submitted. • Prohibits a regulator from considering an event in the driver’s history of a licensee, certificant, or registrant when determining whether to impose discipline and the type or severity of discipline to impose. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • Because some private certification programs may consider safety records of certificants, add a safe harbor provision: “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” 					

Connecticut	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 6 – Jun. 9, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
CT	SB 268	01/22/2021	Joint Committee on General Law	Public Hearing (02/11/2021)	In Senate	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Occupational Regulation • Permits the Commissioner of Consumer Protection to adopt regulations to regulate occupational licensing within the cognizance of the Department of Consumer Protection. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. • Department of Consumer Affairs grants licenses and permits to wide range of professions, including accountants, architects, professional engineers, pharmacists, and realtors. 					

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
CT	SB 646	1/28/2021	Rob Sampson (R)	Referred to Joint Committee on General Law (1/28/2021)	In Senate	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Occupational Regulation • Provides that the general statutes be amended to create a task force to study occupational licenses in Connecticut, with a focus on revising and removing barriers to employment and entrepreneurial activity. • Provides that its purpose is to “reduce the burden of obtaining an occupational license in Connecticut by removing unnecessary barriers to licensure and employment.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. 					

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
CT	HB 6332	02/01/2021	Mike France (R) + 14	Referred to Joint Committee on General Law (02/01/2021)	In House	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Occupational Regulation • Establishes a task force to identify occupational licenses that are purely fee-based. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. 					

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
CT	HB 6474  *REPEAT*	02/18/2021	Joint Committee on Labor and Public Employees	House public hearing scheduled for 3/4/2021 (02/26/2021)	In House	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Note: This bill is a reintroduction of HB 5389 –monitored on the 2020 watchlist– which died when the Connecticut legislature adjourned sine die. • Prohibits a person from being disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a license, permit, certificate, or registration is required solely because of such person’s criminal record. • Only permits denying an occupational license due to a person’s criminal history if denial is consistent with business necessity because: <ul style="list-style-type: none"> ○ There is a substantial nexus between the circumstances of the person’s criminal history record information and the employment the person is seeking or has, taking into account the specific facts of the criminal history record information and the essential functions and specific circumstances of the job; ○ There is substantial evidence that the person with criminal history record information has not been rehabilitated; and ○ Insufficient time has elapsed since the acts underlying the criminal history record information. • Requires the licensing agency to also consider any provisional pardon or certificate of rehabilitation, which shall establish a presumption that an applicant has been rehabilitated and requires that denials be coupled with a written statement if the applicant has a provisional pardon or certificate of rehabilitation. 					

	<ul style="list-style-type: none"> • Instructs that rejections based on criminal history record information must be in writing and specifically state the evidence presented and reasons for rejection. • Prohibits use of erased conviction records. • Makes it a discriminatory practice “for any association, board, or other organization, the principal purpose of which is the furtherance of the professional or occupational interests of its members, whose profession, trade, or occupation requires a state license, to refuse to accept an otherwise qualified person as a member of such association, board or organization on the basis of that person’s criminal history record information.”
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • The prohibition on criminal conviction discrimination by “associations, boards, or other organizations” could be interpreted as invalidating eligibility standards and conduct code of private certification organizations and does intrude on the ethics codes of professional societies, Add a safe harbor provision: “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • Oppose the provision restricting decisions by professional associations, on First Amendment grounds.

Florida	Session Dates	Crossover Deadline	Carryover to 2022
	Mar. 2 – April 30, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
FL	SB 344	12/21/2020	Manny Diaz (R)	Introduced -SJ 60 (03/02/21)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal; titled the “the Occupational Regulation Sunset Act” • Presumptively repeals licensure statutes by set dates (July 1 of 2022, 2023, and 2024), unless the legislature acts before those dates to engage in “systemic review of the costs and benefits” of the occupational regulatory program and acts to “renew the program” with or without modification. • Prohibits an occupational regulatory program that expires through “scheduled repeal” from being “subsequently regulated by a local government.” The bill specifies that “the regulation of any occupation repealed by this act is preempted to the state unless local regulation of such occupation is expressly authorized by law.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • Doesn’t provide factors to consider when determining whether a regulatory program should be allowed to expire or modified, or any standard of review. • The structure of the legislation could lead to repeal of licensure laws because of delay or inaction by the legislature, even due to wholly unrelated considerations. To avoid unintended repeal, the bill should be amended to add to Section 11.65(2): “Notwithstanding any other provision in this Act, no statute authorizing an occupational regulatory program shall be repealed if the Legislature does not engage in systemic review of the program prior to scheduled repeal date in this Act; in such cases, the scheduled repeal date shall be postponed to July 1 of the following calendar year.” The important role of occupational regulations that have been duly enacted by prior legislatures and on which the public relies should not be abolished without the Legislature engaging in its governmental oversight role. • Add “Nothing in this section is intended to restrict an agency from requiring, as a condition of licensure or renewal of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.” • Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual.” 					

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
FL	HB 471 *REPEAT*	01/26/2021	Alex Rizo (R)	1st Reading (03/02/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal / Sunset Review • Note: This bill is a reintroduction of HB 707—monitored on the 2020 watchlist—which was indefinitely postponed and withdrawn from consideration. • Titled the “Occupational Regulation Sunset Act.” • Defines “occupational regulatory program” or “program” as “any statutory regulatory provision or scheme which places a condition on practicing an occupation, including but not limited to, programs that require a license, certification, registration, or credential.” • Provides that there "is established a schedule for systematic review of the costs and benefits of occupational regulatory programs," in accordance with which the legislature will review each program before its scheduled date of expiration to "determine whether to allow the program to expire, renew the program without modifications, renew the program with modifications, or provide for other appropriate actions." • Provides for automatic repeal of licensure regulatory programs and elimination of licensure requirements and enforcement unless legislature affirmatively renews the program, with or without modifications, prior to the program’s expiration date. • Addresses the allocation of revenue and the litigation of any relevant pending claims in the event of expiration of an occupational regulatory program. • Provides that any occupational regulatory program that expires may not be subsequently regulated by a local government. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • Amend bill to require legislative approval of repeal, in order to prevent unwanted elimination of licensure laws and agencies, as occurred in Texas with plumbers. 					

	Session Dates	Crossover Deadline	Carryover to 2022
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Georgia	Jan. 11 – Apr. 2, 2021	Yes
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
GA	SB 114	02/09/2021	Randy Robertson (R) + 23 co-sponsors	Passed Senate (03/01/2021); House Second Readers (03/05/2021)	In Senate	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Amends Chapter 1 of Title 43 of the Official Code of Georgia Annotated, Code Section 43-1-19, to add • “Notwithstanding ... any other provision of law, and unless a felony or crime involving moral turpitude directly relates to the occupation for which the license is sought or held,” prohibits a licensing board from refusing to grant a license to an applicant or revoking a license “due solely or in part” to the applicant or licensee’s conviction of any felony or any crime involving moral turpitude. • The bill would add that no license may be denied to applicant or licensee due to: <ul style="list-style-type: none"> ○ Being under supervision by a community supervision officer for a conviction of any felony or any crime involving moral turpitude, whether it occurred in the courts of this state or any other state, territory, or country or in the courts of the United States, so long as such individual was not convicted of a felony violation of Chapter 5 of Title 16 nor convicted of a crime requiring registration on the state sexual offender registry. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The “Notwithstanding any other provision of law” qualifier invalidates existing provisions of the statute that are critical to ensuring that licensees are otherwise qualified, such as Sections 43-1-19(a)(1) and (2), which provides that a professional licensing board may refuse to grant a license to an applicant who has “failed to demonstrate the qualifications or standards for a license” or has “knowingly made misleading, deceptive, untrue, or fraudulent representations ... in obtaining a license to practice.” In addition, the section would prohibit consideration of any misdemeanors, and the “directly relates to the occupation” qualifier is too narrow. For this reason, the bill should be amended so that Section 43-1-19(q)(1) reads: “Notwithstanding paragraphs (3) or (4) of subsection (a) of this Code section or, subject to the provisions of this Code section, any other provision of law, and unless a felony or crime involving moral turpitude directly relates to the occupation for which the license is sought or held or that the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation, no professional licensing board shall automatically refuse to grant a license to an applicant therefor or shall revoke the license of an individual licensed by that board due solely or in part to such applicant’s or licensee’s having a record of the following, but instead, in the case of a conviction, shall engage in an individualized review of the facts and circumstances of the facts underlying the conviction and any evidence of the individual’s rehabilitation:” 					

- Add a new safe harbor provision Section 43-1-19(q)(3): “**nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.**”
- Add to the list of factors that a licensing entity should consider when determining whether to deny a license, as Section 43-1-19(q)(2)(F): “**whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.**”

Idaho	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 11 – Apr. 2, 2021		No



State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
ID	S 1084	02/10/2021	Senate Committee on Commerce and Human Resources	Passed Senate (02/22/21); Read First Time, Referred to Business (02/23/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Sunset Review • Amends Section 67-9408, Idaho Code to add “and sunset reviews.” • Removes Section (4) which provides that the committee shall operate for three years and make a report to the first regular session of the 67th Idaho legislature in 2023, and that the legislature may take subsequent action to extend the duration of the committee or make it permanent. • Adds Section (4)(e) which provides that the committee shall conduct sunrise reviews for 2 years and make a report to the first regular session of the 67th Idaho legislature in 2023, and that the legislature may take subsequent action to extend the duration of the committee or make it permanent. • Provides that beginning in 2022, the committee shall conduct a sunset review of each licensing authority on a rotating basis as follows: <ul style="list-style-type: none"> ○ Licensing authorities shall be divided into 6 groups; ○ The committee will review at least 1 group per year. ○ Each licensing authority will be reviewed at least every 5 years. ○ A licensing authority may be reviewed out of order by request of the governor or a member of the legislature. • Provides that the review will include stakeholder participation, in such manner as determined by the committee. • After completing the review process, requires the committee to issue a report with its findings on whether: <ul style="list-style-type: none"> ○ The existing licensing or other regulation is necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant regulation; ○ The existing licensing or other regulation is the least restrictive regulation necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation proposed; ○ The public can be effectively protected by other means; 					

	<ul style="list-style-type: none"> ○ The overall cost-effectiveness and economic impact of the existing licensing or other regulation of the profession or occupation; ○ The existing licensing or other regulation has had an unreasonably negative effect on job creation, job retention, or wages in the state or has placed unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to continue to practice or to find employment. <ul style="list-style-type: none"> ● Requires the committee’s report to include a recommendation as to whether: <ul style="list-style-type: none"> ○ The existing licensing or other regulation should be repealed; ○ The existing licensure or other regulation should be amended to reduce barriers to licensure; ○ Other legislative reforms are recommended; or ○ No legislative reforms are recommended. ● Provides that a germane committee of the legislature shall not be bound by a recommendation of the committee.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> ● The bill only calls for review and a report to the legislature with recommendations; the recommendations are not binding, and unlike some other review and repeal bills, do not have the force of law in eliminating regulations or licensing agencies. ● The bill only identifies present harms as a legitimate basis for regulation, however. Change “present, recognizable, and sufficient harm to the health, safety, or welfare of the public” to “significant, and substantiated or recognized harms that threaten the health, and safety, or welfare of the public.” ● Add “Notwithstanding other provisions in this chapter, the committee may recommend retaining licensure requirements for practice of an occupation if the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”

Iowa	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 11 – April 30, 2021		Yes



State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
IA	SSB 1046	01/19/2021	Senate Committee on State Government	Committee report approving bill, renumbered as SF 487 (03/01/2021)	In Senate	Amend	Medium
IA	SF 487 *NEW*	03/01/2021	Waylon Brown (R)	Committee report, approving bill. (03/01/2021)	In Senate	Amend	Medium

Bill Summary

- **Category:** **Review and Repeal / Sunset Review**
- Establishes categories of “regulated health profession,” “unregulated health profession,” “regulated nonhealthy profession,” and “regulated nonhealthy profession.” Provisions aim to prevent new occupational regulations.
- Limits regulation of an “unregulated health profession” to “the exclusive purpose of protecting the public health or safety” and requires that all proposed legislation to regulate an unregulated health profession be reviewed by the general assembly to determine whether:
 - There is credible evidence that the unregulated practice of the unregulated health profession will clearly harm or endanger the public health or safety and the potential for harm is clearly recognizable and not remote.
 - The public needs and can reasonably be expected to benefit from assurance of initial and continuing professional ability.
 - The public cannot be effectively protected by other means in a more cost-efficient manner.
- If the above conditions are met, a legislative committee must “consider whether the legislation is the least restrictive method of regulation to address the specific harm or danger identified” and submit its findings. The following less restrictive methods of regulation are provided:
 - Stricter civil actions and criminal prohibitions.
 - Inspection requirements and enabling judicial injunctive relief.
 - A system of registration.
 - A system of certification.

- A system of licensing.
- Requires a legislative committee to consider the following before “considering proposed legislation to expand the scope of practice of a regulated health profession:”
 - Whether the expansion of a regulated health profession’s scope of practice is only for the purpose of protecting the public from a specified harm or danger.
 - Whether the addition of adequately trained practitioners providing an expanded range of health care services will have a beneficial effect on the public and increase access to safe, quality health care.
 - Whether any changes in the entity regulating the regulated health profession are necessary to protect the public health or safety.
- Prohibits a legislative committee from considering competition with or from other regulated health professions or whether a practitioner will be able to obtain health insurance coverage for the proposed expanded scope of practice.
- Limits regulation of an “unregulated nonhealth profession” to “the exclusive purpose of protecting the public health or safety” and requires that all proposed legislation to regulate an unregulated nonhealth profession be reviewed by the referred legislative committee to determine whether:
 - The unregulated practice of the nonhealth profession can clearly harm the public health or safety.
 - The actual or anticipated public benefit of the regulation clearly exceeds the costs imposed by the regulation on consumers, businesses, and individuals.
 - The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.
 - The public cannot be effectively protected by private certification or other alternatives.
- If the above conditions are met, the legislative committee must “examine data from multiple sources” and “consider evidence of actual harm to the public related to the unregulated nonhealth profession,” then it must determine whether the regulation is the “least restrictive regulation necessary” and “whether the regulation protects a discrete interest group from economic competition” and submit its findings.

- Repeals [Section 3.20, Code 2021](#).
- Amends [Section 2.69, subsection 1, Code 2021](#), to require the state government efficiency review committee to meet monthly, rather than every two years, to “review the usefulness, performance, and efficacy of each board” and adds “one ex officio, nonvoting member appointed by the governor.”
- Requires one-fifth of all boards to be reviewed each calendar year and each board to be reviewed once between 2022 and 2027.
- Requires the committee to prepare and submit recommendations and how such recommendations would, among other things, “provide for the least restrictive regulations by repealing current regulations and replacing them with less restrictive regulations.”
- Defines certification as “a voluntary program in which a private organization or the state grants nontransferable recognition to an individual who meets personal qualifications established by the private organization or state law.”
- Lists certification as the third “least restrictive regulation.”
- Requires the state to “use the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health or safety.”
- Includes that “if a regulation is intended to protect a consumer against asymmetrical information between the seller and buyer, the appropriate state action shall be to offer voluntary certification, unless appropriate, privately offered voluntary certification for the relevant occupation is available.”
- Includes that “this chapter shall not restrict an occupational licensing board from requiring, as a condition of licensure, or renewal of licensure, that an individual’s personal qualifications include obtaining or maintaining certification from a private organization that credentials individuals in the relevant occupation.”
- Preempts any conflicting ordinance or other local law or regulation.
- Amends [Section 272C.3, subsection 1, paragraph d, Code 2021](#) to include “Notwithstanding any other provision of law, if a board determines that there is no probable cause to believe that an asserted violation has occurred, the complaint shall be returned to the complainant with a statement specifying the reasons for rejection sufficient to enable the complainant to review the agency’s determination.”


	<ul style="list-style-type: none"> • Requires a licensing board to designate “entry regulations” or “any rule prescribing qualifications or requirements for a person’s entry into, or continued participation in, any business, trade, profession, or occupation in this state.” • Requires the administrative rules committee to review rules designated as “entry regulations” and consider whether: <ul style="list-style-type: none"> ○ The entry regulation is required by state or federal law. ○ The entry regulation is necessary to protect the public health or safety. ○ The purpose or effect of the entry regulation is to unnecessarily inhibit competition or arbitrarily deny entry into a business, trade, profession, or occupation. ○ The intended purposes of the entry regulation could be accomplished by less restrictive or burdensome means. ○ The entry regulation is outside of the scope of the licensing board’s statutory authority to adopt rules.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • This bill is medium priority, rather than high priority, because it already includes safe harbor provisions that the PCC has proposed for similar kinds of bills. For example, it avoids setting up the government as a competitor to private certification, if existing private certifications are available. And it expressly does not restrict licensure agencies from requiring private certification as a condition of licensure. • The bill also offers greater protection to the <i>status quo</i>, subjecting existing regulations to review but establishing more sizeable roadblocks to new occupational licensing than to existing occupational licensing. • Nonetheless, the bill can be improved in ways that protect the public and the certification community. Specifically, all references to “public health or safety” should be amended to recognize “public health, safety, or welfare” as legitimate bases for regulatory requirements. In addition, the definition of certification should be amended to avoid including empty, purchased credentials. The amended definition should be: “a voluntary program in which a private organization or the state grants nontransferable recognition to an individual who meets personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a specified level of knowledge, competency, or skill required to meet standards in the profession, as established by state law or by a private organization that issues credentials that are widely recognized in the field.”

	<ul style="list-style-type: none"> • Change “present, significant and substantiated harms that threaten public health or safety” to “significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare.” • Add “Notwithstanding other provisions in this chapter, the state may regulate a profession or occupation and impose licensure requirements for practice of that occupation if the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
IA	SSB 1149	02/02/2021	Senate Committee on State Government	Committee report approving bill, renumbered as SF 424 (02/17/2021)	In Senate	Amend	Medium
IA	SF 424	02/18/2021	Carrie Koelker (R)	Passed Senate (03/08/2021); Read first time, referred to State Government. (03/08/2021)	In House		

Bill Summary	<ul style="list-style-type: none"> • Category: Apprenticeship • Requires a board to grant a license to a person who completes an apprenticeship program in the relevant occupation or profession and submits an application. • Defines “apprenticeship” as “a program that meets the requirements of 29 C.F.R. pt. 29, including an industry-recognized apprenticeship program.” • Permits the board to require passage of an exam prior to licensure if it requires such for an application who completes an educational program prior to licensure. Prohibits the board from requiring a higher passing score for an apprenticeship applicant. • Prohibits a board from requiring an apprenticeship applicant to complete more hours of training than the number of hours of education required for an applicant who completes an educational program.
Comments and Proposed Changes	<ul style="list-style-type: none"> • Apprenticeship provisions could create loophole to certification requirements in licensure laws. Therefore, add a safe harbor provision 272C.16 (7) “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

Kansas	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 13 – May 30, 2021		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
KS	SB 10 	01/06/2021	Richard Hilderbrand (R) Michael Fagg (R) Mark Steffen (R) Alicia Straub (R) Mike Thompson (R) Rick Wilborn (R)	Hearing: Wednesday, Jan. 27, 2021, 10:30AM (01/20/2021)	In Senate	Oppose and amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal; titled the “Right to Earn a Living Act” • Limits occupational rules and regulations to “those demonstrably necessary and carefully promulgated to fulfill legitimate health, safety or welfare objectives,” with “welfare” to be “narrowly construed” and defined as protection from “fraud or harm.” • Requires every agency to complete a comprehensive review of all occupational rules and regulations and occupational licenses within its jurisdiction to determine whether it is the “least restrictive”, according to a 15-level hierarchy. • For each occupational rule and regulation and occupational license, the agency must: <ul style="list-style-type: none"> ○ Articulate with specificity the public health, safety or welfare objectives served by the rule and regulation; ○ Articulate the reasons why the rule and regulation is necessary to serve the specified objectives; ○ Analyze, where information is readily available, the effects of rule and regulation on opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs and other effects; and ○ Compare the rule and regulation to whether and how other states regulate the business or professions. • If any occupational rule and regulation is found to not be “demonstrably necessary and carefully promulgated to fulfill legitimate health, safety or welfare objectives,” the agency must: 					

	<ul style="list-style-type: none"> ○ Repeal the occupational rule and regulation or modify the occupational rule and regulation to conform with the standard; or ○ Recommend to the legislature actions necessary to repeal or modify the occupational license or occupational rule and regulation to conform to the standard. ● Permits an individual to petition an agency to repeal or modify an occupational rule and regulation within its jurisdiction, and when an individual files such a petition, the agency must, within 90 days: <ul style="list-style-type: none"> ○ Repeal the occupational rule and regulation; ○ Modify the occupational rule and regulation; or ○ State in writing provided to the petitioner the basis of the agency’s conclusion that the occupational rule and regulation conforms with the standard. ● Provides that the plaintiff shall prevail on his or her petition if the court finds, by a preponderance of the evidence, that the challenged occupational rule and regulation, on its face or in its effect, burdens the entry into a profession or occupation, and that: <ul style="list-style-type: none"> ○ The agency has failed to provide that the challenged occupational rule and regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or ○ The legitimate public health, safety, or welfare objectives can be effectively served by using a less restrictive occupational rule and regulation that is less burdensome to economic opportunity. ● Private certification is listed as the third “less restrictive regulation.” ● If the court finds for the plaintiff, the court shall enjoin further enforcement of the challenged occupational rule and regulation and award reasonable attorney fees and costs to the plaintiff.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> ● The bill allows a private cause of action for individuals to challenge occupational licensing regulations and invites expensive litigation over regulations. ● The PCC opposes passage of the private cause of action provisions of the bill, even if amended to add safe harbors to protect both regulatory recognition of private certification and statutory prohibitions on deceptive trade practices.

- The review provisions of the bill include too narrow of a definition of “welfare,” as it only encompasses protection of members of the public against fraud or harm. This evidentiary burden on the government is extremely high, and the “demonstrably necessary” standard suggests that proof of actual harms from the absence of regulatory requirements would be needed to meet it. This would impose an impracticable burden on the licensing agency to collect appropriate data, as there is in fact no existing data available that gathers evidence of public harm from each level of restriction and compares the level of harm from requiring, for example, bonding and insurance versus an occupational license requirement. In addition, some licensing laws appropriately set baseline levels of professional competence above mere avoidance of inflicting harm on members of the public.
- Amend to delete Section 3 of the bill, which provides for the private cause of action.
- Add a safe harbor provision: **“Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”**
- Add a definition of “private certification” stating that **“‘Private Certification’ means “a nontransferable recognition granted to an individual by a private organization in which the individual meets personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a specified level of knowledge and skill required to meet standards in the profession, as established by the private organization that issues credentials that are widely recognized in the field.”**
- Add **“Notwithstanding other provisions in this chapter, the state may regulate a profession or occupation and impose licensure requirements for practice of that occupation if the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”**

Massachusetts	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 6 – Jan. 4, 2021		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MA	SD 338 *REPEAT*	Unavailable.	Joe Boncore (D)	Currently unavailable.	Unavailable.	Amend	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Note: This bill is a reintroduction of S. 827—monitored on the 2020 watchlist—which died when the Massachusetts legislature adjourned sine die. • Creates the “Uniform Collateral Consequences of Conviction Act” • Provides that an individual convicted of an offense may petition for an order of limited relief from one or more collateral sanctions related to employment, education, housing, public benefits, or occupational licensing. The petition may be presented to the: (1) sentencing court at or before sentencing; or (2) Probation Department at any time after sentencing. • The court or the trial court may issue an order of limited relief relieving one or more of the collateral sanctions if, after reviewing the petition, the individual’s criminal history, any filing by a victim or a prosecutor, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that: “(1) granting the petition will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits, or occupational licensing; (2) the individual has substantial need for the relief requested in order to live a law abiding life; and (3) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The provision creating a right to petition for an order of limited relief from collateral sanctions suggests that an individual could seek a court order prohibiting a certification organization from denying or revoking certification due to a criminal conviction. The definitions suggest that the intention of the bill is limited to consequences imposed by the government, but it would be useful to add a clarification to the definition of “collateral consequence”: “Decisions by nongovernmental persons or entities shall not be considered collateral consequences under this chapter, except for government contractors to the extent they assume the role of decision-makers as defined in Section 2(e).” • To confirm that this provision does not open the door to legal challenges to private certification organizations’ eligibility and disciplinary decision, a safe harbor provision should be added: “Nothing in this chapter shall be 					

construed to require a private certification organization to grant or deny private certification to any individual, nor shall it impair the right of private certification organizations to establish and enforce eligibility criteria, ethics codes, or disciplinary policies. In addition, nothing in this chapter shall be construed to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MA	SD 667	Unavailable.	Will Brownsberger (D)	Currently unavailable.	Unavailable.	Monitor	Low
MA	HD 1380	Unavailable.	Steve Ultrino (D)	Currently unavailable.	Unavailable.		


Bill Summary

- **Category:** **Ex-offender Reentry**
- Permits a person convicted of one or more criminal convictions to seek a certificate of rehabilitation at the time of sentencing “or anytime thereafter.”
- Requires licensing authorities to include a statement on license applications that a certificate of rehabilitation “may relieve the holder of such a certificate from suspension of a license or disqualification for eligibility for a license.”
- Provides that a certificate of rehabilitation creates “a presumption that an individual is rehabilitated and suitable for a license” and removes “any disqualification or suspension from licensure imposed by reason of any offense or offenses specified within the certificate of rehabilitation.”
- Prohibits using records related to an office that ended in dismissal after a continuance without a finding at a licensing proceeding as a basis for denial of a license.
- Prohibits using the fact that an applicant does not have or provide a certificate of rehabilitation as a basis for denial of a license.
- Prohibits a licensing authority from making a finding of lack of good moral character or lack of suitability for a license “if such a finding is based upon the fact that the person was previously convicted of one or more criminal offenses , unless:”
 - The nature of the conviction directly relates to the individual’s fitness or ability to perform one or more primary duties or responsibilities necessarily related to the license or employment sought;
 - The issuance or renewal of the license would involve an unreasonable risk to property or to the safety or welfare of a specific individual or the general public;

	<ul style="list-style-type: none"> ▪ Unreasonable risk is defined as “it is likely that a person may engage in unlawful activity in the workplace similar to the criminal conviction or convictions for which the person was previously convicted, or other offenses made available to the licensing authority.” • Requires the licensing authority to undertake an individualized assessment and consider: <ul style="list-style-type: none"> ○ The public policy of encouraging and enhancing employment and leisure opportunities ex-offenders; ○ The type of work to be performed and the nature of the primary duties or responsibilities necessarily related to the license; ○ How recently the offenses were committed, and whether the amount of time that has elapsed diminishes the relevance of the offense(s); ○ The age of the person at the time of the offense; ○ The seriousness of the offense; ○ Any evidence that the person performed the same type of work after the offense with no known incidents of criminal conduct; ○ Any evidence of the persons’ rehabilitation; and ○ The presumption that the person is rehabilitated if they hold a certificate of rehabilitation.
Comments and Proposed Changes	<ul style="list-style-type: none"> • Because the legislation is directed to licensing decisions “based upon the fact that the person was previously convicted of one or more criminal offenses,” the legislation addresses the stigma of criminal convictions, without barring consideration of the underlying facts. In addition, this language allows licensing agencies to deny licensure based on not meeting other conditions for licensure, such as holding current private certification, since such denials would not be based on the fact of the criminal conviction.

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MA	HD 3018	02/18/2021	Brad Jones (R)	Unavailable.	Unavailable.	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Misc. - Occupational Regulation • Amends 13 of chapter 30A of the General Laws to prohibit an agency or board of registration from denying issuance of, revoking, or refusing to renew any license or professional or occupational certificate, registration or authority based on an individual’s default on an educational loan. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. 					

Minnesota	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 5 – May 17, 2021		Yes


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MN	HF 266 	01/21/2021	Mort Mortensen (R)	Introduction and first reading, referred to State Government Finance and Elections (01/21/2021)	In House	Oppose	High
Bill Summary		<ul style="list-style-type: none"> Category: Misc. - Complete Prohibition Prohibits the state against enforcing “any statute, session law, or administrative rule that relates to an occupational licensing requirement” and “applies to any occupational license issue by a state agency or board.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> This bill is a complete prohibition against occupational licensing with no exemptions. 					

Mississippi	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 5 – Apr. 4, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	SB 2792	01/18/2021	John Horhn (D)	Passed Senate (02/11/2021); Point of Order Raised (03/09/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Amends the “Fresh Start Act of 2019,” Sections 73-77-5, 73-77-7, and 73-77-9, Mississippi Code of 1979, to remove “Absent applicable state law” to apply “Notwithstanding any other provision of law” instead of “absent applicable state law.” • Amends Section 73-77-7 and 73-77-9 to include: <ul style="list-style-type: none"> ○ “Nothing in this section shall preclude any board, commission or other licensing entity from granting licenses to individuals convicted of disqualifying convictions after considering the factors listed under this subsection (2)” and ○ “For any board, commission or other licensing entity with an existing procedure for hearings and appeals following the denial of a license codified in rules or statute on January 1, 2021, those existing procedures for hearings and appeals shall supersede the provisions of this section.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The bill provides an opportunity to make amendments to the already enacted Fresh Start Act of 2019 that would benefit the certification community. • Amend the current statute to add a safe harbor provision: “nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • Amend the current statute to add to the list of factors that a licensing entity should consider when determining whether to deny a license: “whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” • Amend the current statutory provision establishing early binding determinations of disqualification to treat such decisions as preliminary, and to allow the licensing authority to consider any new evidence relevant to the application at the time it is made, not just subsequent convictions or identification of failures to disclose information. 					

For example, subsequent pending criminal charges of evidence of an active substance abuse problem may be a legitimate reason to deny a license.

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	SB 2184 *REPEAT*	01/08/2021	Angela Hill (R)	Died on Calendar (02/11/2021)	Failed	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Misc. - Oversight of Licensing Board Litigation • Note: This bill is a reintroduction of SB 2381—monitored on the 2020 watchlist—which died in committee. • Amends Mississippi Code of 1972, Section 73-47-9, which created the Occupational Licensing Review Commission • Adds one small business owner appointed by the Governor and one small business owner appointed by the Lieutenant Governor to the Occupational Licensing Review Commission • Adds the responsibility of actively supervising “any civil action brought by or on behalf of an occupational licensing board, including the authorization of the action.” • Requires an occupational licensing board to request an authorization form, in writing, from the commission 30 days prior to filing a civil action and to mediate the dispute with any potential defendants. • Permits a court to award a defendant who prevails in a civil action brought by an occupational licensing board one-half of its costs upon the entry of final judgment. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time. 					

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	SB 2048  *REPEAT*	01/05/2021	Kevin Blackwell (R)	Died in Committee (02/02/2021)	In Senate	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal • Note: This bill is a reintroduction of SB 2432—monitored on the 2020 watchlist—which died in committee. 					

	<ul style="list-style-type: none"> • Requires the Department of Health, Department of Transportation, Department of Education, Department of Finance and Administration, and the Department of Information Technology to review “every regulation, rule and requirement under its jurisdiction and prepare a base inventory...of the regulatory requirements in its existing rules.” • Requires such agencies to accept written public comments for at least 60 days, including holding at least two public hearings to allow citizens and businesses to identify regulations that are ineffective, unnecessary, or unduly burdensome; • Requires such agencies, for every regulation under its purview, to affirm (among other information): <ul style="list-style-type: none"> ○ Whether the regulation is essential to the health, safety, or welfare of Mississippi residents ○ Whether the regulation is the least restrictive regulation necessary to protect consumers from present, significant and substantiated harms that threaten public health and safety • Requires such agencies, based on the required reporting, to amend or rescind regulatory requirements “as necessary to reduce the total number of regulatory requirements under its purview by 30% over 3 years • Requires such agencies, before proposing a new rule, to repeal at least 2 existing rules with an explanation “as to what the repeal will accomplish in terms of increasing economic opportunities for the citizens of Mississippi and streamlining state government.” <ul style="list-style-type: none"> ○ After 30% of regulatory requirements are repealed, an agency is required to repeal 1 existing rule before proposing a new rule.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • Requiring a 30% reduction in regulations or the repeal of two regulations for every one added shifts the focus from whether the regulations are appropriate and needed for the protection of the public. It is also easily gamed; some single regulatory requirements can be much more sweeping or significant in impact than even a dozen minor regulatory provisions. <i>Amend</i> to delete Subsections 2(2) and 2(3), which relate to the fixed percentage reduction. • The standard of review is too narrow, omits public welfare, and presents an unrealistic evidentiary burden. Change “present, significant and substantiated harm that threaten public health or safety” to “significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare,” and change “essential to the health, safety, or welfare of Mississippi residents” to “significantly promotes or protects the health, safety, or welfare of Mississippi residents.”

	<ul style="list-style-type: none"> • Add a safe harbor provision: “a pilot agency may adopt a new regulation for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.” Add a safe harbor provision: “nothing in this chapter shall require a pilot agency to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	HB 663 	01/18/2021	Randy Boyd (R)	Died in Committee (02/02/2021)	Failed	Amend	High

Bill Summary	<ul style="list-style-type: none"> • Category: Review and Repeal • Note: Similar to SB 2048, above. • Creates the “Regulatory Reduction Pilot Program.” • Requires the Department of Health, Department of Transportation, Department of Education, Department of Agriculture and Commerce, and the Department of Information Technology Services to review “each of its regulation, rules and guidance documents and prepare a base inventory...of the regulatory requirements in its existing regulations, rules and guidance documents.” • Requires such agencies to accept written public comments for at least 60 days, including holding at least two public hearings to allow citizens and businesses to identify regulations, rules, and guidance documents that are ineffective, unnecessary, or unduly burdensome; • Requires such agencies, for each existing regulation, rule or guidance document under its purview, to affirm (among other information): <ul style="list-style-type: none"> ○ Whether the regulation, rule, or guidance document is essential to the health, safety, or welfare of Mississippi residents ○ Whether the regulation, rule, or guidance document is as least restrictive as necessary to protect consumers from present, significant and substantiated harms that threaten public health and safety
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	<ul style="list-style-type: none"> Requires such agencies, based on the required reporting, to amend or rescind regulations, rules or guidance documents “as necessary to reduce the total number of regulatory requirements under its purview by 30% over 3 years” Requires such agencies, before proposing a new rule, to repeal at least 2 existing rules with “as statement explaining how the repeal will help increase the economic opportunities for the citizens of Mississippi and streamlining state government.” After 30% of regulatory requirements are repealed, an agency is required to repeal 1 existing rule before proposing a new rule.
Comments and Proposed Changes	<ul style="list-style-type: none"> Requiring a 30% reduction in regulations or the repeal of two regulations for every one added shifts the focus from whether the regulations are appropriate and needed for the protection of the public. It is also easily gamed; some single regulatory requirements can be much more sweeping or significant in impact than even a dozen minor regulatory provisions. <i>Amend</i> to delete Subsections 2(2) and 2(3), which relate to the fixed percentage reduction. The standard of review is too narrow, omits public welfare, and presents an unrealistic evidentiary burden. Change “present, significant and substantiated harm that threaten public health or safety” to “significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare,” and change “essential to the health, safety, or welfare of Mississippi residents” to “significantly promotes or protects the health, safety, or welfare of Mississippi residents.” Add a safe harbor provision: “a pilot agency may adopt a new regulation for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.” Add a safe harbor provision: “nothing in this chapter shall require a pilot agency to alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	HB 421	01/18/2021	Carl Mickens (D)	Died in Committee (02/02/2021)	Failed	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> Category: Ex-offender Reentry Amends the “Fresh Start Act of 2019,” Sections 73-77-1, 73-77-3, 73-77-5, 73-77-7, and 73-77-9, Mississippi Code of 1972. 					

	<ul style="list-style-type: none"> Provides that the Fresh Start Act supersedes any other provision of law to the contrary and makes technical, nonsubstantive changes. Amends Section 99-19-35, Mississippi Code of 1972 to allow a person convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy to practice medicine or dentistry or to be appointed to hold or perform the duties of any office of profit, trust, or honor, after expungement, currently only available after full pardon.
Comments and Proposed Changes	<ul style="list-style-type: none"> The amendments this bill proposes to existing law are unobjectionable, but the bill provides an opportunity to make amendments to the already enacted Fresh Start Act of 2019 that would benefit the certification community. Amend the current statute to add a safe harbor provision: “nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” Amend the current statute to add to the list of factors that a licensing entity should consider when determining whether to deny a license: “whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” Amend the current statutory provision establishing early binding determinations of disqualification to treat such decisions as preliminary, and to allow the licensing authority to consider any new evidence relevant to the application at the time it is made, not just subsequent convictions or identification of failures to disclose information. For example, subsequent pending criminal charges of evidence of an active substance abuse problem may be a legitimate reason to deny a license.

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	HB 1250	01/18/2021	Kabir Karriem (D)	Died in Committee (02/02/2021)	Failed	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> Category: Ex-Offender Reentry Amends the “Fresh Start Act of 2019,” Sections 73-77-1, 73-77-3, 73-77-5, 73-77-7, and 73-77-9, Mississippi Code of 1972. Provides that the Fresh Start Act supersedes any other provision of law to the contrary and makes technical, nonsubstantive changes. 					

Comments and Proposed Changes	<ul style="list-style-type: none"> • The amendments this bill proposes to existing law are unobjectionable, but the bill provides an opportunity to make amendments to the already enacted Fresh Start Act of 2019 that would benefit the certification community. • Amend the current statute to add a safe harbor provision: “nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • Amend the current statute to add to the list of factors that a licensing entity should consider when determining whether to deny a license: “whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” • Amend the current statutory provision establishing early binding determinations of disqualification to treat such decisions as preliminary, and to allow the licensing authority to consider any new evidence relevant to the application at the time it is made, not just subsequent convictions or identification of failures to disclose information. For example, subsequent pending criminal charges or evidence of an active substance abuse problem may be a legitimate reason to deny a license.
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	SB 2364	01/15/2021	Angela Turner-Ford (D)	Died in Committee (02/02/2021)	Failed	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Amends the “Fresh Start Act of 2019,” Sections 73-77-5, 73-77-7, and 73-77-9, Mississippi Code of 1979, to remove “Absent applicable state law.” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The bill provides an opportunity to make amendments to the already enacted Fresh Start Act of 2019 that would benefit the certification community. • Amend the current statute to add a safe harbor provision: “nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • Amend the current statute to add to the list of factors that a licensing entity should consider when determining whether to deny a license: “whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” 					

	<ul style="list-style-type: none"> Amend the current statutory provision establishing early binding determinations of disqualification to treat such decisions as preliminary, and to allow the licensing authority to consider any new evidence relevant to the application at the time it is made, not just subsequent convictions or identification of failures to disclose information. For example, subsequent pending criminal charges of evidence of an active substance abuse problem may be a legitimate reason to deny a license.
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MS	SB 2608	01/18/2021	Barbara Blackmon (D)	Died in Committee (02/02/2021)	Failed	Monitor	Low
MS	HB 1265	01/18/2021	Noah Sanford (R)	Died in Committee (02/02/2021)	Failed		
MS	HB 1266	01/18/2021	Mark Tullos (R)	Died in Committee (02/02/2021)	Failed		
MS	HB 1267	01/18/2021	Daryl Porter (D)	Died in Committee (02/02/2021)	Failed		

Bill Summary	<ul style="list-style-type: none"> Category: Judicial Review Entitles a party who is “adversely affected by final agency action” to judicial review in the Chancery Court of the First Judicial District of Hinds County, if a notice of appeal or petition for review is filed within 30 days of the order, judgment, or action of the agency. Provides that “a preliminary, procedural, or intermediate order of an agency is immediately reviewable if review of the final agency decision would not provide an adequate remedy.” Requires a supersedeas to be granted “as a matter of right” if the agency decision suspends or revokes a professional license, “unless a court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety or welfare of the state.” Permits the reviewing court to issue a mandatory, prohibitory, or declaratory decision and “provide whatever relief is appropriate irrespective of the original form of the petition,” including: <ul style="list-style-type: none"> Ordering agency action required by law; Ordering agency exercise of discretion when required by law;
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- Setting aside agency action;
- Remanding the case for further agency proceedings; or
- Deciding the rights, privileges, obligations, requirements, or procedures at issue between the parties; and
- Ordering such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.
- Permits the court to remand a case to the agency for further proceedings in or set aside the agency action, as appropriate, if it finds that:
 - There has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts;
 - The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing; however, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact;
 - The fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure;
 - The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action; or
 - The agency's exercise of discretion was: (i) Outside the range of discretion delegated to the agency by law; (ii) Inconsistent with agency rule; (iii) Inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or (iv) Otherwise in violation of a constitutional or statutory provision.
- Provides that the court shall not substitute its judgment for that of the agency on an issue of discretion..
- Requires the court to affirm the agency action unless it “finds ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section.”

	<ul style="list-style-type: none"> • Does not provide for a petition “challenging an agency rule as an invalid exercise of delegated legislative authority...unless the sole issue presented by the petition is the constitutionality of a rule and there are no disputed issues of fact.”
Comments and Proposed Changes	<p>Unlike Right to Earn a Living Act bills, this bill does not allow challenges to occupational licensing regulations or shift the burden of proof to the state agency. Instead, the bill adds a level of judicial review to individual adverse licensure decisions, with the court limited to reviewing the record before the agency for legal or procedural errors.</p>


Montana	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 4 – Apr. 28, 2021	Mar. 3, 2021	No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
MT	SB 361	02/23/2021	Terry Gauthier (R) Brian Hoven (R)	Passed Senate (03/02/2021); (H) Referred to Committee: (H) Judiciary (H) First Reading (03/08/2021)	In House	Amend	Medium

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Permits an individual with a criminal record, their attorney, or a county attorney to file a petition requesting a certificate of rehabilitation be issued by a court. • Requires the court to issue a certificate of rehabilitation to the petitioner if the court determines they have met the following requirements: <ul style="list-style-type: none"> ○ The individual has received a conditional discharge and provides evidence of achieving one or more of the achievements listed in 46-23-1027(2)(a) through (2)(f) (high school diploma, postsecondary degree, apprenticeship program, vocational certification program, employment of at least 20 hours per week for 6 or more months, attendance at a faith-based, social service, or rehabilitation activity for 6 or more months); or ○ The individual has completed 18 months of probation or parole supervision, a combination of 18 months of probation and parole supervision, one-half of a deferred sentence, or 1 year in the community following the discharge of a sentence and provides evidence of meeting two or more of the achievements listed in 46-23-1027(2)(a) through (2)(f); and ○ Within 1 year of filing the petition, has not been convicted while under conditional discharge or probation or parole supervision of a misdemeanor offense resulting in a term of incarceration exceeding 6 months, excluding traffic violations, or of a felony offense. • Provides that the certificate of rehabilitation creates a presumption of rehabilitation and successful reentry into the community and is a bar against using the individual’s criminal record against them in: <ul style="list-style-type: none"> ○ Applications for attendance at a postsecondary educational institution or vocational training program that is required for participation or employment in an employment field; ○ Mandated professional and occupational licensure or employment for which good moral character is a qualification factor as determined by a licensing board or certification authority. 					

	<ul style="list-style-type: none"> • If an individual with a certificate of rehabilitation is convicted of a felony or misdemeanor resulting in a term of incarceration exceeding 6 months, excluding traffic violations, the certificate of rehabilitation will be automatically revoked. • Prohibits criminal convictions from operating as an automatic bar to being licensed to enter any occupation in the state of Montana and prohibits a licensing authority from refusing to license a person solely on the basis of a previous criminal conviction unless an applicant has been convicted of a criminal offense and the offense has a direct relationship to the occupation for which the license is sought. • Permits a licensing authority to find that the applicant with the previous criminal conviction has not been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • The requirements for obtaining a certificate of rehabilitation are modest and should protect against the stigma of a criminal conviction, but not against considering the facts of proven past conduct. Amend Section 2(2) to provide that “The presumption is a bar against use of the individual's criminal record against the individual as evidence of lack of good moral character, but does not bar consideration of the facts underlying the conviction, in....” • Amend Section 5 of the bill to add to Section 37-1-203, MCA: “As used in this section ‘direct relationship’ means that the nature of the criminal conduct for which the person was convicted has a direct bearing on the person’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license or employment or that the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” • Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

New Jersey	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 14, 2020 – Jan. 11, 2022		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
NJ	A 2178  *2020*	1/14/2020	Raj Mukherji (D)	Introduced, Referred to Assembly Law and Public Safety Committee (1/14/2020)	In Assembly	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Note: Carryover to 2021 of bill from prior legislative session. • Provides for the issuance of a certificate of rehabilitation to certain offenders with substance abuse disorders who have been determined, by a clear and convincing evidence standard, to be rehabilitated. • Provides that the certificate of rehabilitation shall “supersede all laws to the contrary, suspend and relieve all disabilities and forfeitures imposed by law by reason of the individual’s conviction of any crime or offense enumerated in the certificate, and remove any bars to employment or professional licensure or certification applicable to persons convicted of criminal offenses, except as required pursuant to federal statute or the provisions of this act.” • Enumerates “disabilities, forfeitures and bars that may be suspended and relieved by the certificate” of rehabilitation, including “qualification for a license or certification to engage in the practice of a profession, occupation, or business” and “admission to an examination to qualify for such a license or certificate.” • Provides that a “certificate granted under this section shall not prevent any judicial, administrative, licensing or other body, board, authority, public official, or employer from relying on grounds other than the fact of the criminal conviction in exercising any discretionary authority to suspend, revoke, refuse to issue, or to refuse to renew any license, permit, or other authority or privilege, or to determine eligibility or suitability for employment.” • Prohibits the denial of an employment application submitted by a person who has been issued a certificate of rehabilitation because the applicant has been previously convicted of one or more crimes or offenses, or by reason of a finding of lack of “good moral character” except when (1) there is a direct relationship between one or more of the previous crimes or offenses and the specific employment sought; and (2) less than 10 years have elapsed since the commission of the most recent crime other than disorderly persons offenses. • Defines “direct relationship” and provides that the certificate of rehabilitation is considered presumptive evidence of rehabilitation. 					

	<ul style="list-style-type: none"> Defines “license” as “any certificate, license, permit, or grant of permission required by the laws of this State or any political subdivision thereof, or of any instrumentality of this State or its political subdivision, as a condition for the lawful practice of any act, occupation, employment, trade, vocation, business, or profession. License shall not include any license or permit to own, possess, carry, or discharge a firearm.” Prohibits the issuance of certificate of rehabilitation to a number of enumerated violent, sexual, and other crimes.
Comments and Proposed Changes	<ul style="list-style-type: none"> Because the bill purports to remove any bars to “professional licensure or certification,” it could be used to challenge decisions by private professional certification organizations to enforce their eligibility requirements or codes of conduct. Amend Section 2 to provide that the certificate shall “remove any bars imposed by law to employment or professional licensure or certification applicable to persons convicted of criminal offenses....” Amend definition of “license” to “any government-issued certificate, license, permit, or grant of permission required by the laws of this State or any political subdivision thereof...”, Amend definition of “direct relationship” to: “As used in this section ‘direct relationship’ means that the nature of the criminal conduct for which the person was convicted has a direct bearing on the person’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license or employment or that the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
NJ	S 2612 *2020*	6/25/2020	Kristin Corrado (R) Steve Sweeney (D)	Referred to Senate Budget and Appropriations Committee (7/22/2020)	In Senate	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> Category: Ex-Offender Reentry Note: Carryover to 2021 of bill from prior legislative session. Allows an applicable entity, defined as “a board, committee, or any State body that issues a credential for a profession or occupation,” to issue a limited license if an individual with a criminal conviction successfully completes training offered by a county correctional facility or the Department of Corrections that is necessary in order to practice a specific profession or occupation. 					

	<ul style="list-style-type: none"> Requires the applicable entity to establish the period of time an individual can work under the limited license and place conditions on the license. Requires the applicable entity to limit the scope and location of an individual’s practice, to assign a supervisor to the individual at the place of employment, and to require the individual with the limited license to notify the entity if there is a change of supervisors. Provides that a limited license is to be revoked if the individual with such license (1) is convicted of a crime of the first, second, third, or fourth degree, or a disorderly persons offense in New Jersey, or a similar offense in another jurisdiction, or (2) fails to comply with the conditions placed on a limited license. Provides that within 30 days of the expiration of a limited license, the supervisor of the individual with the limited license is to provide written notice to the applicable entity that issued the limited license addressing if the individual complied with all conditions of the license; the applicable entity is to issue an unrestricted license if the individual complied with the conditions of the limited license for the length of the license and meets all of the other qualifications for licensure under the applicable practice act of the profession or occupation.
Comments and Proposed Changes	<ul style="list-style-type: none"> Does not warrant intervention at present.


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
NJ	S 942 *2020*	1/27/2020	Troy Singleton (D) Gerry Cardinale (R)	Passed Senate (06/29/2020); Received in the Senate, 2nd Reading on Concurrence (03/04/2021)	Passed Assembly	Monitor	Low
NJ	A 2890 *NEW*	02/20/2021	Yvonne Lopez (D) Nick Chiaravalloti (D) Britnee Timberlake (D)	Substituted by S942 (2R) (03/01/2021)	In Assembly		
Bill Summary		<ul style="list-style-type: none"> Category: Ex-Offender Reentry Note: Carryover to 2021 of bill from prior legislative session. Amends the statute on Professions and Occupations to permit a board to refuse to administer an examination to an individual, or to refuse to issue or suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license has engaged in certain conduct, including having “ been convicted of, or engaged in acts constituting, any crime or offense that has a direct or substantial 					

	<p>relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.”</p> <ul style="list-style-type: none"> Provides that an entity (a board listed under section 2 of P.L.1978, c.73 (C.45:1-15)) shall not disqualify a person from obtaining or holding any certificate, registration or license solely because the person has been convicted of or engaged in acts constituting any crime or offense, unless the crime or offense has a direct or substantial relationship to the regulated activity or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public's health, safety, or welfare.
Comments and Proposed Changes	<ul style="list-style-type: none"> Does not warrant intervention at present.

New Mexico	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 19 – Mar. 20, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
NM	SB 183	01/31/2021	Joe Certvantes (D)	Sent to HJC - Referrals: HJC (02/26/2021)	In Senate	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Titled the “Uniform Collateral Consequences of Conviction Act.” • Defines a “decision-maker” as the state acting through the following entities or their employees: (1) a department; (2) an agency; (3) an officer; or (4) an instrumentality, including a political subdivision, an educational institution, a board or a commission or a government contractor, including a subcontractor, made subject to the Uniform Collateral Consequences of Conviction Act by contract, by law other than the Uniform Collateral Consequences of Conviction Act or by ordinance. • Defines “disqualification” as “a penalty, disability or disadvantage, however denominated, that an administrative agency, governmental official or court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction of an offense.” • Provides that in deciding whether to impose a disqualification, a “decision-maker” shall undertake an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual; the decision-maker may consider, if substantially related to the benefit or opportunity at issue: the particular facts and circumstances involved in the offense, and the essential elements of the offense and other relevant information, including the effect on third parties of granting the benefit or opportunity. • Allows an individual convicted of an offense to petition for an order of limited relief from “one or more collateral sanctions related to employment, education, housing, public benefits, or occupational licensing” at the sentencing court or probation department. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The definition of decision-maker indicates that the intention of the bill is limited to consequences imposed by the government. 					


Oklahoma	Session Dates	Crossover Deadline	Carryover to 2022
	Feb. 1 – May 28, 2021		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
OK	SB 756 	02/01/2021	Michael Bergstrom (R)	Referred to Business, Commerce and Tourism Committee then to Appropriations Committee (02/02/2021)	In Senate	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Limited Consumer Choice/Right to Earn a Living statute • Creates the “Oklahoma Certification Opportunity Act.” • Defines “private certification” as “a nontransferable recognition by a private certifying organization that an individual meets the qualifications determined by the private certifying organization.” • Defines “private certifying organization” as “a nongovernmental organization that allows any individual to apply for private certification regardless of the individual’s race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, or marital status.” • Defines “Participating private certifying organization” means “a private certifying organization that registers and otherwise meets the criteria specified in subsection C of Section 3 of this act.” • Defines “Privately certified” as “a designated title that an individual may use if the individual is certified by a participating private certifying organization.” • Permits a private certifying organization to voluntarily participate and register with the Secretary of state. Once registered, a participating private certifying organization is required to publish the following on a public website: <ul style="list-style-type: none"> ○ The scope of practice for each lawful occupation that the organization certifies, ○ The qualifications that an individual must possess to become certified by the private certifying organization, ○ Other factors the private certifying organization uses to certify individuals which may include consumer comments, rankings and other consumer-initiated elements, ○ The names, business addresses and websites of all individuals privately certified by the organization, and 					

- The states in which the private certifying organization is registered.
- A participating private certifying organization must also:
 - Require qualifications related to the lawful occupation an individual is certified for;
 - Verify an individual's qualifications before certification and periodically verify eligibility;
 - Require a privately certified individual to prominently display the private certification and make available materials about the qualifications and other factors required for the private certification;
 - Have at least 50 privately certified individuals in active practice in the U.S. after one year of applying for registration with the Secretary of State
- Permits a participating private certifying organization to require certificants to obtain and maintain a bond for liability related to the practice of the privately certified lawful occupation and to require certificants to pay initial and ongoing fees.
- Provides a right for certificants to engage in the lawful occupation they are certified in, regardless of other occupational regulations enacted by the State, and prohibits the State from prohibiting or imposing a penalty, fine, or fee on a certificant for engaging in a lawful occupation in compliance with the bill.
- Requires a certificant who is engaging in a lawful occupation that the State has enacted an occupational regulation for to display a sign stating:
 - The government licenses the service;
 - The individual is not licensed by the government;
 - The individual is privately certified by [the name of the private certifying organization]; and
 - The contact information of the private certification organization.
- Prohibits a certificant who is not licensed, registered, or certified by the government from using the term "licensed," "certified" or "registered" to describe the individual's credential or "any words, titles, abbreviations or letters that would induce a reasonably knowledgeable consumer of such services to believe the privately certified

	<p>individual using them is occupationally regulated by the government,” but permits use of the term “privately certified.”</p> <ul style="list-style-type: none"> • Provides that an individual who “knowingly and falsely claims to be privately certified pursuant to this act is subject to penalties under the state’s deceptive trade practices act.” • Provides the Secretary of State with enforcement of the act and the authority to terminate the registration of participating private certifying organizations. • Provides exceptions that nothing in the act shall be construed to, among other things: <ul style="list-style-type: none"> ○ Limit damages in a private civil action against an individual who is privately certified or who knowingly and falsely claims to be privately certified; ○ Require a private party or the government to do business with an individual who is not licensed, certified or registered with the government; ○ Create a cause of action against a private party or the government; ○ Require a private certification organization to participate and register with the government; ○ Increase the authority of the government to regulate nonparticipating private certification organizations;
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • This bill provides a more limited variant of Consumer Choice and Right to Earn a Living bills. It sets up the state as, in effect, an alternative accreditor of private certification programs, and uses private certification as a pathway for individuals to avoid licensure provided that they disclose their lack of a license to consumers. This removes the state oversight and enforcement function from regulated professions and shifts it onto private certification organizations. • Amend to delete Section 4 (“Right to Engage in Lawful Occupation”) and Section 5 of the bill, in order to remove the consumer choice aspects of the bill. • The bill opens the door to credential-purchasing organizations masquerading as private certification organizations, Amend definition of “Private Certifying Organization” to “a nongovernmental organization that issues credentials that are widely recognized in the field based on demonstrated qualifications relevant to performance of the occupation to which the certification pertains, including by the individual’s demonstration through examination or assessment that the individual has a specified level of knowledge, competency, or skill required to meet standards in the profession, and that allows any individual to apply for private certification


	<p>regardless of the individual’s race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, or marital status.”</p> <ul style="list-style-type: none"> • The definition of “private certification” should be revised to state that “‘Private Certification’ means a nontransferable recognition by a private certifying organization that an individual meets the personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating through performance on an assessment or examination a specified level of knowledge and skill required to meet standards in the profession, as determined by the private certifying organization.” • Delete Section 3(C)(4) that requires a privately certified individual to prominently display the private certification and make available materials about the qualifications and other factors required for the private certification, as certification organizations should not compel certificants to advertise or rely on their certifications. • Amend Section 7(D) to add: “(10) Alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” • Amend Section 7(D) to add: “(11) Restrict an individual from using the title ‘certified’ or the title ‘registered’ to the extent that title reflects a credential held by the individual that was issued by a private certification organization that confers credentials to individuals meeting the qualifications set by the organization’s certification or certificate program.” • Amend Section 7(D) to add: “(12) Prevent the government from regulating a profession or occupation and impose licensure requirements for practice of that occupation if the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
OK	SB 542  *REPEAT*	02/01/2021	Nathan Dahm (R)	Second reading; referred to Senate Business, Commerce, and Tourism Committee (02/02/2021)	In Senate	Oppose	High
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal /"Right to Earn a Living Act."/ • Note: this bill is a reintroduction of SB 651—monitored on the 2020 watchlist—which failed to meet a previous crossover deadline. • Requires every agency to conduct a comprehensive review of all occupational regulations and occupational licenses within their jurisdiction, and (1) “articulate with specificity the public health, safety, or welfare objective(s) served by the regulation, (2) “articulate the reasons why the regulation is necessary to serve the specified objectives,” (3) analyze, where information is readily available, the effects of regulation on opportunities for 					


	<p>workers, consumer choices and costs, general unemployment, market competition, governmental costs and other effects; and (4) “compare the regulation to whether and how other states regulate the business or profession.”</p> <ul style="list-style-type: none"> • Provides that “all occupational regulations shall be limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety or welfare objectives.” If an agency determines that this standard is not met, it must repeal or modify the regulation or recommend that the legislature take action giving authority to the agency to repeal or modify the regulation. • Provides that the term “‘Welfare’ shall be narrowly construed to encompass protection of members of the public against fraud or harm.” • Requires each agency to report to the legislature on all actions taken to conform with the Act. • Provides that any person may petition any agency to repeal or modify any occupational regulation or file an action in court to challenge an occupational regulation. • Provides that a court can enjoin enforcement of a regulation and award attorney’s fees as costs to the petitioner if the court determines that the agency has failed to prove by “a preponderance of evidence that the challenged occupational regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety or welfare objectives” or “where the challenged occupational regulation is necessary to the legitimate public health, safety or welfare objectives, such objectives can be effectively served by using a less restrictive regulation.” • “Private certification” is listed as the third least restrictive form of regulation.
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • This bill is a more direct threat to occupational licensing. Unlike other bills calling for a commission or a report, this bill mandates that agencies repeal regulations that do not meet the designated evidentiary standards. It also allows a private cause of action for individuals to challenge occupational licensing regulations. • Efforts to broaden the kinds of information agency must consider may be advisable, as well as broadening the definition of public welfare an agency or a court may consider. • The bill invites expensive litigation over regulations. • The PCC opposes passage of the private cause of action provisions of the bill, even if amended to add safe harbors to protect both regulatory recognition of private certifications and statutory prohibitions on deceptive trade practices.

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
OK	HB 1981	02/01/2021	Mark Lepak (R)	CR; Do Pass, amended by committee substitute Business and Commerce Committee (02/24/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal • Note: Also monitored on the PCC reciprocity watchlist for the “Universal Licensing Recognition Act.” • Requires all state occupational and professional licenses to be reviewed “not less than once every four years pursuant to the Occupational Licensing Review Act to determine if the license is necessary and, if necessary, use the least restrictive regulation to protect consumers from present, significant and substantiated harms that threaten public health and safety.” • Requires the Occupational Licensing Advisory Commission to review all state occupational and professional licenses and ask the following questions: <ul style="list-style-type: none"> ○ Is there a compelling public interest that needs to be protected; ○ Are the least restrictive means that would sufficiently protect the public interest being used; ○ If occupational or professional licensing is used, does the regulating entity in charge of such licensure have a controlling number of regulating entity members as market participants; and ○ Is there active supervision of the regulating entity's actions by the state. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • Unlike other review and repeal bills, this bill does not contain a hierarchy of least restrictive to most restrictive means of addressing occupational regulation. Neither does the bill mandate abolishing regulations, but rather it creates a commission to review regulations. Nonetheless, it could benefit from safe harbor provisions, and it omits public welfare as a legitimate regulatory consideration. Change “present, significant and substantiated harms that threaten public health and safety” to “significant and substantiated or recognized harms that threaten public health, and safety, or welfare.” • Add that “nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.” • Add another safe harbor provision: “the state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.” 					

Pennsylvania	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 5 – Nov. 30, 2022		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
PA	SB 211 	02/11/2021	Kristin Phillips-Hill (R)	Referred to Judiciary (02/11/2021)	In Senate	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Misc. - Liability Limitation • Provides that a person is immune from civil and criminal liability and from imposition of an administrative sanction— including that imposed by a professional or occupational licensing board or commission—for engaging in a “protected business operation,” except liability arising from or an imposition based on the person causing “actual harm.” • Defines a “protected business operation” as any of the following under a declared disaster emergency: <ul style="list-style-type: none"> ○ Conducting a business transaction; or ○ Keeping a physical business location open. • Defines “actual harm” as a documented injury or illness that is directly and proximately caused by the interaction with the person or an agent of the person. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • This bill is incredibly broad, and reading between the lines, seems to be targeted as immunizing businesses who defy emergency stay-at-home orders by continuing to conduct business and/or keep businesses open. It requires no consideration of the <i>potential</i> for harm and defines harm only after it has happened and is documented. This could allow professionals to practice without a license or in violation of licensure laws as long as state of emergency has been issued. • Amend Section 8340.4 so that the limited immunity relates only to liability arising from the violation of the emergency order: “General rule.--Except as provided in subsection (b), a person is immune from civil and criminal liability and from imposition of an administrative sanction, including any liability or sanction imposed by a professional or occupational licensing board or commission, for engaging in a protected business operation that such person otherwise conducts in a lawful manner.” • Amend Section 8340.4(b) to provide: “Exception.--Subsection (a) does not apply to a liability arising from, or an imposition based upon, the person causing actual harm or the person violating legal obligations other than those arising from a declared disaster emergency made under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor) or an order issued under the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955.” 					

Rhode Island	Session Dates	Crossover Deadline	Carryover to 2022
	January 5, 2021 – June 30, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
RI	HB 5428  REPEAT*	2/8/2021	David Place (R) Mike Chippendale (R) Bob Quattrocchi (R)	Committee recommended measure be held for further study (03/03/2021)	In House	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal and Ex-Offender Reentry • Note: this bill is a reintroduction of HB 7359—monitored on the 2020 watchlist—which died when the RI legislature adjourned sine die. • Titled “Occupational Licensing Review Act.” • Requires the speaker of the house of representatives and the president of the senate to assign to the small business committee of the house and the labor committee of the senate (hereinafter “committees”) the responsibility to analyze proposals and legislation that create new occupational regulations and/or modifying existing occupational regulations. • The committees will determine if the proposed regulation meets the state's policy of using the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harms. • Provides that the committees will require proponents to submit evidence of present, significant, and substantiated harms to consumers in the state; the committees may also request information from state agencies that contract with individuals in regulated occupations and others knowledgeable of the occupation, labor-market economics, or other factors, cost and benefits. • The committees “will employ a rebuttable presumption that consumers are sufficiently protected by market competition and private remedies” and “the committees will give added consideration to the use of private certification programs that allow a provider to give consumers information about the provider’s knowledge, skills and association with a private certification organization;” the committee may rebut the presumption if they find both credible, empirical evidence of present, significant, and substantiated harm, and that consumers do not have the information and means to protect themselves against such harm. If evidence of such unmanageable harm is found, the committees may recommend “the least restrictive government regulation to address the harm...” 					

- Provides guidelines for the “least restrictive” regulation required, including that a “shortfall or imbalance in the consumer’s knowledge about the goods or services relative to the provider’s knowledge (asymmetrical information), the committees may recommend enacting government certification” and if there is the need “to address multiple types of harm, the committees may recommend a combination of regulations to include, but not be limited to, a government regulation combined with a private remedy including third-party or consumer-created ratings and reviews, or private certification.”
- Provides that if there is a “systematic information shortfall in which a reasonable consumer of the goods or services is permanently unable to distinguish between the quality of providers and there is an absence of institutions that provide guidance to consumers, the committees may recommend enacting an occupational license.”
- Defines "Private certification" as “a voluntary program in which a private organization grants non-transferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization. The individual may use a designated title of "certified," as permitted by the organization.”
- “Private certification” is listed as the third least restrictive form of regulation.
- Requires the committee to consider the effects of legislation on “opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs, and other effects,” to compare the legislation to determine whether and how other states regulate the occupation, and to issue a report.
- Requires, beginning in 2021, each standing committee of the legislature to review and analyze approximately 20% of the occupational licenses under the committee’s jurisdiction and, beginning in 2022, prepare and submit a report to the speaker of the house of representatives, the president of the senate, and the governor to make recommendations regarding whether the occupational license should be repealed, continued, or modified; each committee must complete this “process within five years and every five years thereafter.
- Provides that nothing in this section “shall be construed to preempt federal regulation or to require a private certification organization to grant or deny private certification to any individual.”
- Provides that “Notwithstanding any other law, a board, agency, department or other state agency (hereafter "board") shall only utilize this chapter to deny, diminish, suspend, revoke, withhold or otherwise limit state recognition because of a criminal conviction.”

	<ul style="list-style-type: none"> • Provides that a “board may not automatically bar an individual from state recognition because of a criminal record but will provide individualized consideration;” a board may consider only a conviction of a non-excluded crime that is a felony or violent misdemeanor;” lists information that a board may not consider. • Requires the board to consider the individual’s current circumstances (e.g. the time since the offense, the completion of the criminal sentence, the age of the individual when the offense was committed, etc.). • Prohibits the board from using vague terms in its consideration and decision included “good moral character,” “moral turpitude,” or “character and fitness.” • Requires the Board to hold a public hearing if the individual requests one. • Permits the Board from denying, diminishing, suspending, revoking, withholding or otherwise limiting state recognition only if the board determines (a) “the state has an important interest in the regulation of a lawful occupation that is directly, substantially and adversely impaired by the individual’s nonexcluded criminal record as mitigated by the individual’s current circumstance...” and (b) “the state’s interest outweighs the individual’s fundamental right to pursue a lawful occupation;” the board must make its decision by clear and convincing evidence. • Permits the individual to appeal the board’s decision as provided in the administrative procedures act. • Provides a process whereby “an individual with a criminal record may petition a board at any time, including before obtaining any required personal qualifications, for a decision whether the individual’s criminal record will disqualify the individual from obtaining state recognition” and the board must issue a determination. • Requires the legislature to establish an annual reporting requirement of the number of times that each board acts to deny, diminish, suspend, revoke, withhold or otherwise limit state recognition from a licensed individual because of a criminal conviction, offenses for each board acted, numbers of each board’s approvals and denials, and offenses for which each board approved or denied petitions. • Provides that “Nothing in this chapter shall be construed to require a private certification organization to grant or deny private certification to any individual.”
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • Because the bill calls only for a report with recommendations, the review and repeal aspects of the bill are not as immediately dangerous as bills calling for expiration or abolition of regulations or licensure agencies. The ex-offender re-entry provisions contain categorical bars on consideration of relevant information.

- Change “necessary to protect consumers from present, significant, or substantiated harms” references to **“designed to provide protections against significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare”** and change “evidence of present, significant, and substantiated harm” to **“identification of significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare.”**
- The definition of “private certification” should be revised to state that “‘Private Certification’ means “a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation **to which the certification pertains, including by demonstrating a specified level of knowledge and skill required to meet recognized standards in the profession,** as determined by the private organization. The individual may use a designated title of "certified," as permitted by the organization.”
- Add that **“nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.”**
- Add another safe harbor provision: **“the state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”**
- Modify the provision calling for enactment of government certification by adding **“unless suitable, private certification for the relevant occupation is available. As used in this section, ‘suitable’ means widely recognized as reflecting established standards of competency, skill, or knowledge in the field”** or delete the provision entirely.
- Change provision on when committees may recommend occupational licensure to state that if there is “a systematic information shortfall in which a reasonable consumer of the service is unable to distinguish between the quality of providers **or there is an imbalance in the consumer’s knowledge about the good or service relative to the provider’s knowledge** (asymmetrical information), the committees may recommend enacting an occupational license **and may consider recognizing or requiring private certification or as a condition of licensure.”**
- Provide that **“committees must also invite public comment from licensees, the occupational licensing board, and the public about the impact of the existing occupational license requirements”** in reviewing existing occupational licensure laws.

- Provide that the committees’ **“reports must be publicly available and posted on the website of the office, and must include the rationale for the committees’ recommendation, including a description of the expected impact of any regulatory changes on public health, safety, or welfare.”**
- Amend Section 5-90-8(b) to state **“Notwithstanding any other law, a board, agency, department or other state agency (hereinafter “board”), when determining eligibility for a license, registration, permit, government certification, or other state recognition (hereinafter “state recognition”), may consider convictions of the applicant of crimes only in accordance with this act.”**
- Amend to state **“A board will not automatically bar an individual from state recognition because of a criminal record, except as provided in this act.”**
- Delete that **“A Board may consider only a conviction of a non-excluded crime that is a felony or violent misdemeanor.”**
- Revise Section 5-90-8(e) as follows (including by deleting 5-90-8(e)(6)):


“In considering an application for state recognition, a board will not consider:

 1. information related to a deferred adjudication, participation in a diversion program, or an arrest not followed by a conviction;
 2. a conviction for which no sentence of incarceration can be imposed;
 3. a conviction that has been sealed, dismissed, **annulled**, expunged or pardoned;
 4. a juvenile adjudication; **or**
 5. **a conviction for an offense unrelated to the applicant’s suitability for the trade, occupation, or profession for which the applicant seeks state recognition.”**
- Add new Section 5-90-8(g) to provide that **“A board may refuse to grant or renew, or may suspend or revoke any state recognition based in whole or in part on a conviction of a crime if all of the following apply: (1) The individual has been convicted of a felony or a misdemeanor which directly relates to the trade, occupation or profession for which the state recognition is sought or that reflects that the individual poses an unacceptable risk to the people with whom the individual would interact in the conduct of the profession or occupation. (2) The board has conducted an individualized assessment of the relation of the conviction to the individual’s overall suitability to engage in the trade, occupation or profession for which the state recognition is sought.”**

An individualized assessment conducted under this paragraph shall include a consideration of the particular facts or circumstances surrounding the offense or criminal conduct and the grade and seriousness of the offense or criminal conduct.”



- **Revise existing Section 5-90-8(g) to replace “The Board shall consider the individual’s current circumstances” with “A board may not refuse to grant or renew and may not suspend or revoke any license, certificate, registration or permit under Section 4(E) if the individual can establish sufficient mitigation or rehabilitation and fitness to perform the duties of the trade, occupation or profession for which the state recognition is sought. Where the criminal conduct is directly related to the state recognition being sought, the board shall consider relevant proof of any factors that would rebut an adverse presumption or show rehabilitation, ”**
- Delete Section 5-90-8(i).
- **Revise or add the following in the list in the existing Section 5-90-8(g.): “the facts or circumstances regarding the offense or criminal conduct;” “the passage of time since the offense and since the completion of any criminal sentence;” “other evidence of rehabilitation or of repeat offenses;” “whether the individual poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation;” and “whether the individual is bonded.”**
 - Add provision that **“Nothing in this chapter shall be construed to alter a board’s authority to enforce other conditions of state recognition, such as eligibility requirements or compliance with board regulations.”**
 - Revise Section 5-90-9(d) to add **“The decision may include conditions affecting whether state recognition should be granted.”**
 - Revise Section 5-90-9(e) to add **“... material and adverse change in the petitioner’s criminal record or new material information having a bearing on the decision comes to light.”**
 - Amend to state **“Nothing in this act shall be construed to require a private certification organization to grant or deny private credentials to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”**

South Carolina	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 12 – Dec. 31, 2021		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
SC	S 295 	12/9/2020	Wes Climer (R)	Referred to Committee on Labor, Commerce and Industry (01/12/2021)	In Senate	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Prohibits a regulatory board or commission from denying a license – solely or in part – to an applicant “because of a prior criminal conviction unless the criminal conviction directly relates to the duties and responsibilities of the occupation or profession for which the applicant is seeking a license.” • Requires each regulatory board or commission to “make available to all license applicants a comprehensive list of criminal convictions that are specific and directly related to the duties and responsibilities of the occupation or profession regulated by the board or commission.” • Prohibits regulatory boards or commissions from using “vague or generic terms, including, but not limited to, ‘moral turpitude’ or ‘good character,’ and from considering arrests without a subsequent conviction as a justification for denying an applicant a license.” • Requires the applicable regulatory board or commission to apply a “clear and convincing” standard of proof when determining whether an applicant with a criminal conviction should be denied a license, and to consider the following factors: <ul style="list-style-type: none"> ○ The nature and severity of the crime for which the applicant was convicted; ○ The length of time since the applicant’s conviction; ○ The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation for which the applicant is seeking licensure; and ○ Any evidence of rehabilitation or treatment undertaken by the applicant that may mitigate the relationship referred to the relationship referred to above. • If an applicant has a disqualifying criminal conviction, the disqualification cannot last for longer than 5 years from the date of the conviction, “provided that the conviction is not for a violent crime or criminal sexual conduct and that the applicant has not been convicted of another disqualifying crime during that five-year period.” • Allows an applicant with a criminal record to petition a regulatory board or commission for a determination of whether the applicant’s criminal record will disqualify them from eligibility for a license. 					

	<ul style="list-style-type: none"> ○ The responsive determination must be made based on a “clear and convincing” evidentiary standard and must be binding “unless the applicant has subsequent criminal convictions or failed to disclose relevant information in his petition.” • “If a regulatory board or commission denies a permit application solely or in part because of the applicant’s prior conviction of a crime, then the regulatory board or commission must notify the applicant in writing of its decision,”
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • The provision that a regulatory board may not “solely or in part deny a license to an applicant because of a prior criminal conviction” could be used to create an exception to licensure requirements for certification, if the loss of certification was due to a criminal conviction. • The automatic end of disqualification five years after date of conviction with an exception only for violent crimes does not protect the public from licenses being granted to those convicted of fraud or other serious but not violent crimes, and it makes an exception only in the case of a conviction (rather than pending charges) within that five-year period. • A pre-determined list of criminal convictions that are “directly related” to certain professions removes important discretion from licensing agencies and as a result, provides insufficient protections to the public. Replace Section 40-1-75(B) with, “A criminal conviction is ‘specific and directly related to the duties and responsibilities of an occupation or profession’ if the circumstances of the offense and the nature of the occupation would create an unreasonable risk to public safety or welfare for an ex-offender to practice the licensed profession.” • Add to the list of factors in Section 40-1-75(C)(1) that a licensing agency should consider when determining whether to deny a license a new subsection (e) “whether the applicant poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” • Amend the provision establishing early binding determinations of disqualifications to treat such decisions as preliminary, and to allow the licensing authority to consider any new evidence relevant to the application at the time it is made, and not just subsequent convictions or identification of failures to disclose information. For example, subsequent pending criminal charges of evidence of an active substance abuse problem may be a legitimate reason to deny a license. • Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

- Propose [PA SB 637](#) (from 2020) as a better model.

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
SC	H 3474 	12/16/2020 <i>*prefiled</i>	Leola Robinson (D)	Member(s) request name added as sponsor: J. L. Johnson (01/13/2021)	In House	Amend	High
SC	H 3334 	12/09/2020 <i>*prefiled</i>	Todd Rutherford (D)	Member(s) request name added as sponsor: J.L.Johnson (01/14/2021)	In House	Amend	High

Bill Summary

- Category: Ex-Offender Reentry; “Ban the Box Act”**
- Prohibits a public or private employer from inquiring into, considering, or requiring disclosure of “the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview by the employer” or “before a conditional offer of employment is made to the applicant.”
- Exempts the Department of Corrections or employers “who have a statutory duty to conduct a criminal history background check or otherwise take into consideration a potential employee’s criminal history during the hiring process.”
- Prohibits an individual from being disqualified from “pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime, unless the crime for which he was convicted directly relates to the position of employment sought or the occupation for which the license is sought.”
- When determining whether a conviction “directly relates” to the “occupation for which the license is sought,” the following factors must be considered:
 - The nature and seriousness of the crime for which the individual was convicted;
 - The relationship of the crime or crimes to the purposes of regulating the position of public employment sought or the occupation for which the license is sought; and
 - The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.
- Prohibits disqualifying an individual with a criminal conviction that directly relates to the “occupation for which a license is sought” if the individual “can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought.”
- “Competent evidence of sufficient rehabilitation” may include:

	<ul style="list-style-type: none"> ○ The production of the person's most recent certified copy of a United States Department of Defense form 214 (DD-214) showing the person's honorable discharge, or separation under honorable conditions, from the United States armed forces for military service rendered following conviction for any crime that would otherwise disqualify the person from the public employment sought or the occupation for which the license is sought <ul style="list-style-type: none"> ▪ Except if the person is convicted for any gross misdemeanor or felony committed after the effective date of the honorable discharge or separation from military service ○ A copy of the local, state, or federal release order, ○ Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole, or ○ A copy of the relevant Department of Corrections discharge order or other documents showing completion of probation or parole supervision <ul style="list-style-type: none"> ● A licensing authority may also consider any evidence presented by the applicant regarding <ul style="list-style-type: none"> ○ The nature and seriousness of the crime for which he was convicted; ○ All circumstances relative to the crime, including mitigating circumstances or social conditions surrounding the commission of the crime; ○ The age of the person at the time the crime was committed; ○ The length of time elapsed since the crime was committed; ○ Letters of reference by people who have been in contact with the applicant since the applicant's release from any local, state, or federal correctional institution ● A licensing authority that disqualifies an individual “from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the individual's prior conviction of a crime,” must notify the individual in writing ● The provisions of this section must prevail over any other laws and rules which purport to govern the granting, denial, renewal, suspension, or revocation of a license
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> ● The provision that no person may be “disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime” could be used to create an exception to licensure requirements for certification, if the loss of certification was due to a criminal conviction and also to challenge denials of private professional certification. Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”

- The list of evidence of “sufficient rehabilitation” is scanty. Amend Section 3(a) to provide that “Competent evidence of sufficient rehabilitation **should be documented, and must include but shall not be established solely by ...**”
- Add to Section 41-1-35 (D)(2) a new subsection (d), “**Whether the circumstances of the offense and the nature of the occupation would create an unreasonable risk to public safety or welfare for an ex-offender to practice the licensed profession.**”
- Add a new provision after Section 41-1-35 (D)(3)(a) to state “**The applicant must also provide information about the applicant’s activities since the conviction as well as additional information requested by the licensing authority that is relevant to the licensing authority’s determination of the sufficiency of the evidence of mitigation or rehabilitation and fitness to perform the duties of the occupation. The applicant must also disclose any pending charges against the applicant at the time of the application and during the licensing authority’s consideration of the application.**”
- Propose [PA SB 637](#) (from 2020) as a better model.

Tennessee	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 12 – May 6, 2021		Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
TN	HB 785	02/09/2021	William Lamberth (R)	Assigned to s/c Criminal Justice Subcommittee (02/20/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Titled the “Reentry Success Act of 2021.” • Amends Tennessee Code Annotated, Section 62-76-104(b)(4), to require the licensing authority to consider the following when considering whether to deny an application for or whether to refuse to renew a license, certificate, or registration on the basis of a criminal conviction: <ul style="list-style-type: none"> ○ The relationship between the nature of the crime and the purposes of regulating the occupation, profession, business, or trade for which the license, certificate, or registration is sought; ○ The relationship between the crime and the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation, profession, business, or trade; ○ Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade; and ○ Any applicable federal laws regarding an individual's participation in the occupation, profession, business, or trade. • Removes the following provision TN Code § 62-76-104(B): If an applicant, licensee, certificate holder, or registrant's prior conviction was for a Class A felony, Class B felony, or Class C felony not defined under title 39, chapter 17, part 4, or if the felony conviction is for an offense for which the offender is required to register under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1; the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or title 40, chapter 39, part 3, there shall be a rebuttable presumption that the conviction relates to the fitness of the applicant, licensee, certificate holder, or registrant engaged in the applicable occupation, profession, business, or trade. 					

Comments and Proposed Changes	<ul style="list-style-type: none">• Amend Section 62-76-104(b)(4) to add a subsection (E): “Whether the individual poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.”• Add an additional consideration as Section 22(4)(F): “The facts or circumstances regarding the offense or criminal conduct.”• Amend Section 22(4)(C) to read: “Any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against the relationship of crime to the occupation, profession, business, or trade or evidence of repeat offenses; and”• Remove the deletion of/include existing TN Code § 62-76-104(B).
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Texas	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 12 – May 31, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
TX	HB 757	12/8/2020	Rep. Harold Dutton (D)	Referred to Corrections; Read first time (03/01/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Prohibits using “an offense for which the defendant received a dismissal and discharge” as grounds for “denying issuance of a professional or occupational license to, or suspending or revoking the professional or occupational license of, an individual otherwise entitled to or qualified for the license,” except as specified in the bill. • Allows using “an offense for which the defendant received a dismissal and discharge” as grounds for “denying, suspending, or revoking a professional or occupational license, if the offense is: <ul style="list-style-type: none"> ○ Listed in Article 42A.054(a) (first degree felony, murder, aggravated kidnapping, trafficking of persons, indecency with a child, sexual assault, injury to a child, elderly individual, or disabled individual, aggravated robbery, burglary, prostitution etc.) ○ Described by Article 62.001(5) or (6) (a “reportable conviction or adjudication” or “sexually violent offense”) ○ Committed under Chapter 21 or 43 of the Penal Code (“sexual offenses” and “public indecency”) ○ Related to the activity or conduct for which the person seeks or holds the license • Removes the provision allowing the Department of Family and Protective Services to consider “the fact that the defendant previously has received deferred adjudication community supervision” when “issuing, renewing, denying, or revoking” a license under Chapter 42, Human Resources Code • Removes the provision allowing the Council on Sex Offender Treatment to consider “the fact that the defendant previously has received deferred adjudication community supervision” when “issuing, renewing, denying, or revoking a license issued by that Council” 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • That this bill requires individuals to be “otherwise entitled to or qualified for the license” means that licensure requirements for professional certification would still be enforced. The bill still needs to be improved to better protect the public and certification organizations that rely on licensure decisions. 					

	<ul style="list-style-type: none"> Amend Article 42A.111(c-2)(2)(B) to read “sufficiently related to the activity or conduct for which the person seeks or holds the license” Add a new section (c-3) “An offense is ‘sufficiently related’ to the activity or conduct for which the person seeks or holds the license if the circumstances of the offense and the nature of the occupation would create an unreasonable risk to public health, safety or welfare for an ex-offender to practice the licensed profession.” Add to Article 42A.111(c-2)(2) “or,” after subsection B, and add a new subsection “(C)one that relates to conduct that poses an unacceptable risk to the people with whom the applicant would interact in the conduct of the profession or occupation.” Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.”
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State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
TX	HB 758	12/8/2020	Rep. Harold Dutton (D)	Referred to Corrections; Read first time (03/01/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> Category: Review and Repeal Creates a commission to study and review all laws of the state that “restrict the rights or activities of persons convicted of a felony offense” including “eligibility for certain occupational licenses.” The commission shall (1) evaluate all laws that restrict the rights or activities of persons convicted of a felony offense in the context of eligibility for certain occupational licenses and (2) “make recommendations to the legislature regarding the repeal or amendment of laws that are identified as being overly restrictive or not otherwise serving the best interest of justice.” Not later than November 1, 2022, the commission shall report their findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, the Supreme Court of Texas, and the Texas Court of Criminal Appeals and include “any specific statutes that the commission recommends repealing or amending.” 					

Comments and Proposed Changes	<ul style="list-style-type: none">• The bill only calls for review and a report to the legislature with recommendations, the recommendations are not binding, and unlike some other review and repeal bills, do not have the force of law in eliminating regulations or licensing agencies. But it creates unnecessary burdens on some licensing agencies and may have a downstream impact on regulated professions that require professional certification.• Add a safe harbor provision: “the department may exempt from its review and reporting requirements any licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”
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Vermont	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 6 – May 28, 2021		Yes


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
VT	HB 237	02/10/2021	Barbara Rachelson (D)	Read First Time and Referred to the Committee on Government Operations (02/10/2021)	In House	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-offender Reentry • Proposes to add statewide standards for the licensure of applicants with criminal conviction histories to 26 V.S.A. chapter 57. • Proposes to require that each State regulatory entity provide a biennial report which contains the number of licenses denied based on an applicant's criminal conviction history, along with a list of each conviction that constituted the basis for each denial. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • No intervention warranted at this time; full text of bill is unavailable, so we will continue to monitor. 					

Virginia	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 8, 2020 – Feb. 13, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
VA	HB 601 *2020*	1/6/2020	Nicholas J. Freitas (R)	House: Left in General Laws (2/11/2020)	Failed	Oppose	High
Bill Summary		<ul style="list-style-type: none"> • Category: Right to Earn a Living • Note: Carryover to 2021 of bill from prior legislative session. • Permits any person from petitioning an agency to request the agency to review an existing regulation for compliance with the provisions of § 54.1-100 (which provides that Virginia cannot abridge a person’s right to engage in any lawful profession, trade, or occupation unless “it is clearly found that such abridgment is necessary for the protection or preservation of the health, safety, and welfare of the public and (ii) any such abridgment is no greater than necessary to protect or preserve the public health, safety, and welfare” and allows for occupational regulation only “for the exclusive purpose of protecting the public interest when: [among other factors] the unregulated practice of the profession or occupation can harm or endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument).” The bill also provides a process for an agency to respond to such a petition; if the agency finds that the regulation is not in compliance with § 54.1-100 the agency “shall take appropriate steps to repeal such regulation.” • Permits any individual feeling burdened by an occupational regulation to challenge the regulation in court, provided they can meet the burden of “demonstrat[ing] by a preponderance of the evidence that the challenged occupational regulation on its face or in its effect burdens the entry into or participation in an occupation;” if this burden is met, the burden shifts to the agency “to demonstrate by a preponderance of the evidence that the challenged occupational regulation is necessary to protect or preserve the health, safety, and welfare of the public and otherwise complies with the provisions of § 54.1-100. 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • The bill invites expensive and distracting litigation over regulations and does not exempt any professions from its coverage. • Almost any individual seeking to enter a regulated profession can meet the burden of establishing that a regulation “burdens the entry into” a profession. As a practical matter, this means the bill will almost always place the burden of justifying a regulation on the state. 					

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| | <ul style="list-style-type: none">• The bill exempts no professions from its provisions, including traditionally regulated professions such as healthcare practitioners, lawyers, CPAs, etc.• Safe harbors should be added to protect both regulatory recognition of private certifications and statutory prohibitions on deceptive trade practices. To cut down on expensive and unnecessary litigation, challenges should be permitted only for professions that are not subject to similar regulation in at least half of the other states. |
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Washington	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 11 – Apr. 25, 2021		Yes


State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
WA	HB 1403  *REPEAT*	1/27/2021	Brandon Vick (R)	Scheduled for executive session in the House Committee on Consumer Protection & Business; no action taken (2/15/2021)	In House	Amend	High
Bill Summary		<ul style="list-style-type: none"> • Category: Review and Repeal/ Sunset Review • Note: this bill is a reintroduction of HB 2477—monitored on the 2020 watchlist—which failed to meet a previous crossover deadline. • Establishes a sunset review process for all professional licensing requirements regulated by the department of licensing “to ensure that the public's health, safety, and general welfare is protected. Furthermore, technological innovation continues to change the responsibilities and practices surrounding these professions, and by result, the potential harms associated with them.” • Requires, beginning in 2022, each standing committee of the legislature to “annually review and analyze approximately twenty percent of the professional licenses regulated by the department and prepare and submit an annual report electronically to the chief clerk of the house of representatives, the secretary of the senate, and each member of the house of representatives and senate by August 31st of each year as provided in this section;” each committee must complete this process within five years and every five years thereafter. • Requires each report to include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified; provides the information that must be included in the report, including “ for the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, professional licenses, and registrations the department, professional board, or commission has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties” and an analysis of “whether the professional license meets the policies stated [in this act].” • Provides that the committee shall recommend “enact[ing] government certification” if it identifies a “need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge.” 					

<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • Because the bill calls only for a report with recommendations, the bill is not as immediately dangerous as bills calling for expiration or abolition of regulations or licensure agencies. • Add that “nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.” • Add another safe harbor provision: “the state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.” • Modify the provision calling for enactment of government certification by adding “unless suitable, private certification for the relevant occupation is available. As used in this section, ‘suitable’ means widely recognized as reflecting established standards of competency, skill, or knowledge in the field” or delete the provision entirely. • Change provision on when staff may recommend occupational licensure to state that if there is “a systematic information shortfall in which a reasonable consumer of the service is unable to distinguish between the quality of providers or there is an imbalance in the consumer’s knowledge about the good or service relative to the provider’s knowledge (asymmetrical information), staff may recommend enacting an occupational license and may consider recognizing or requiring private certification or as a condition of licensure.” • Provide that “staff must also invite public comment from licensees, the occupational licensing board, and the public about the impact of the existing occupational license requirements” in reviewing existing occupational licensure laws. • Provide that staff’s “reports must be publicly available and posted on the website of the office, and must include the rationale for the staff’s recommendation, including a description of the expected impact of any regulatory changes on public health, safety, or welfare.” • Change “present, significant, and substantiated harm” to “identification of significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare.”
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West Virginia	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 13 – Apr. 10, 2021	March 31, 2021	Yes

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
WV	HB 2251 *REPEAT*	02/10/2021	Dean Jeffries (R)	To House Government Organization (02/10/2021)	In House	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: Ex-Offender Reentry • Note: This is a reintroduction of HB 4122—monitored on the 2020 watchlist—which failed to meet the crossover deadline. • Reorganizes the articles in the current Chapter 30 titled “Health-Related Professions and Occupations,” regarding licensing of professions and occupations, into three separate chapters arranged by duties and educational requirements, both prior to and following licensing. • Defines “Board” as the “board, authority, or other agency authorized by the provisions of this chapter to issue licenses, certifications, registrations, or other authorizations to engage in a particular profession or occupation.” • Provides that the “Boards subject to the requirements of this section may not disqualify an applicant from initial licensure to engage in a profession or occupation because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.” • Provides that in determining whether a criminal conviction bears a rational nexus to a profession or occupation, the board shall consider at a minimum: “(A) The nature and seriousness of the crime for which the individual was convicted; (B) The passage of time since the commission of the crime; (C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and (D) Any evidence of rehabilitation or treatment undertaken by the individual.” • Prohibits the licensing entity from relying on the term the term "moral turpitude" as a description of a crime. • Provides that if an applicant is disqualified from licensure because of a prior criminal conviction, a board shall permit the applicant to apply for initial licensure if “(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later; (B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and (C) The conviction was not for 					

	<p>an offense of a violent or sexual nature.” (A conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the individual board.)</p> <ul style="list-style-type: none"> Permits an individual with a criminal record who has not previously applied for licensure may petition the appropriate board at any time for a determination of whether the individual’s criminal record will disqualify the individual from obtaining a license. States that the requirements of this section do not apply to the criteria that boards may consider when making determinations regarding relicensure or discipline of licensees.
Comments and Proposed Changes	<ul style="list-style-type: none"> Add a safe harbor provision: “Nothing in the chapter shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure.” Amend definition of “rational nexus” to add “and (E) evidence of whether the individual poses an unacceptable risk to the health, safety, or welfare of the people with whom the individual would interact in the conduct of the profession or occupation.” Amend § 30A-1-29(3)(B) to state: “The individual has not been convicted of any other crime during the period of time following the disqualifying offense and has no pending criminal charges,” Amend § 30A-1-29(3)(C) to state: “The conviction was not for an offense that directly relates to the individual’s fitness to practice the occupation, did not relate to fraud in connection with the practice of the occupation, and was not for an offense of a violent or sexual nature.”

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
WV	SB 472  *REPEAT*	02/26/2021	Mark Maynard (R)	To Government Organization (02/26/2021)	In Senate	Amend	High
Bill Summary		<ul style="list-style-type: none"> Category: Review and Repeal/ Sunrise Review Note: This is a reintroduction of SB 646—monitored on the 2020 watchlist—which failed to meet the crossover deadline. Defines “Private certification” as a “a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization. The individual may use a designated title of “certified” or other title conferred by the private organization.” 					

- “Private certification” is listed as the third least restrictive form of regulation.
- Provides that The Performance Evaluation and Research Division (the “Division”) shall determine if the proposed regulation meets the policy of using the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harms; the Division will “employ a rebuttable presumption that consumers are sufficiently protected by market competition and private remedies” and “will consider the use of private certification programs that allow a provider to give consumers information about the provider’s knowledge, skills, and association with a private certification organization.”
- Provides that the Division may rebut the presumption “if it finds both credible, empirical evidence of present, significant, and substantiated harm, and that consumers do not have the information or means to protect themselves against such harm. If evidence of such unmanageable harm is found, the committee will recommend the least restrictive government regulation to address the harm.”
- Provides guidelines for the Division in forming its recommendations to the committees that will hear the legislation, including if there is “a shortfall or imbalance of knowledge about the good or service relative to the provider’s knowledge (asymmetrical information), the office may recommend enacting government certification” and if there is “the need to address multiple types of harm, the office may recommend a combination of regulations. This may include a government regulation combined with a private remedy including third-party or consumer created ratings and reviews, or private certification.”
- Provides that if there is “a systematic information shortfall in which a reasonable consumer of the service is permanently unable to distinguish between the quality of providers and there is an absence of institutions that provide guidance to consumers, staff may recommend enacting an occupational license.”
- Requires the Division to consider the effects of legislation on “opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs, and other effects,” to “request information from state agencies that contract with individuals in regulated occupations and others knowledgeable of the occupation, labor-market economics, or other factors, costs and benefits,” to compare the legislation to determine whether and how other states regulate the occupation, and to issue a report.
- The Division’s report shall include evaluation, analysis, and findings as to (1) whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and any evidence of present, significant, and substantiated harms to consumers in the state; (2) the requisite personal qualifications, if any; (3) the scope of practice, if applicable; (4) if regulation is required to address evidence of harm to consumers in the state, the least restrictive regulation of the occupation or profession; and (5) whether the professional or occupational group or organization should be regulated as proposed in the application.

- Provides that, after receiving the Division’s report, the “Joint Committee on Government Organization may issue additional findings and recommendations regarding: (1) The least restrictive regulation of the occupation or profession; and (2) Whether regulation would result in the creation of a new agency or board or could be implemented more efficiently through an existing agency or board,”
- Requires the House of Delegates and the Senate to adopt a rule requiring any committee considering legislation to enact or modify an occupational regulation to receive the Performance Evaluation and Research Division’s report and the Joint Standing Committee on Government Organization’s findings and recommendations if applicable, prior to voting on the legislation.
- Provides that “Nothing in this article shall be construed to preempt federal regulation or to require a private certification organization to grant or deny private certification to any individual.”
- Requires the Division to review annually (beginning July 1, 2021) the occupational regulations of approximately 20% of the current occupational licenses; all occupational licenses will be reviewed within the subsequent eight (8) years and will repeat such review processes in each eight-year period thereafter; using the criteria in section 30-1A-3(c) through 30-1A-1a(i) and research or other credible evidence whether an existing regulation directly helps consumers to avoid present, significant, and recognizable harm.
- Requires the Division, beginning On July 1, 2022, to prepare and submit a report to the joint standing committee on government organization regarding whether the occupational license should be repealed, continued, or modified.
- Provides that “Nothing in this article shall be construed to authorize the office to review the means that a private certification organization uses to issue, deny, or revoke a private certification to any individual, or to require a private certification organization to grant or deny private certification to any individual.”
- Provides that “In construing any governmental regulation of occupations, including an occupational licensing statute, rule, policy, or practice, the following canons of interpretation are to govern, unless the regulation is unambiguous: (1) Occupational regulations will be construed and applied to increase economic opportunities, promote competition, and encourage innovation; (2) Any ambiguities in occupational regulations will be construed in favor of workers and aspiring workers to work; and (3) The scope of practice in occupational regulations is to be construed narrowly to avoid burdening individuals with regulatory requirements that only have an attenuated relationship to the goods and services they provide.”

<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> • Because the bill calls only for a report with recommendations, the bill is not as immediately dangerous as bills calling for expiration or abolition of regulations or licensure agencies. The bill also explicitly provides that it does not apply to decisions by private certification organizations. • Change all “present, significant, or substantiated harms to consumers” references to “significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare,” and change “evidence of present, significant, and substantiated harm” to “identification of significant, and substantiated or recognized imminent harms that threaten public health, and safety, or welfare.” • Change provision on when committees may recommend occupational licensure to state that if there is “a systematic information shortfall in which a reasonable consumer of the service is unable to distinguish between the quality of providers or there is an imbalance in the consumer’s knowledge about the good or service relative to the provider’s knowledge (asymmetrical information), the committees may recommend enacting an occupational license and may consider recognizing or requiring private certification or as a condition of licensure.” • Provide that “staff must also invite public comment from licensees, the occupational licensing board, and the public about the impact of the existing occupational license requirements” in reviewing existing occupational licensure laws. • Provide that staff’s “reports must be publicly available and posted on the website of the office, and must include the rationale for the staff’s recommendation, including a description of the expected impact of any regulatory changes on public health, safety, or welfare.” • The definition of “private certification” should be revised to state that “‘Private Certification’ means a “voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications relevant to performing the occupation, including by demonstrating a specified level of knowledge and skill required to meet recognized standards in the profession, as determined by the private organization. The individual may use a designated title of “certified” or other title conferred by the private organization.” • Add that “nothing in this Chapter is intended to restrict an agency from requiring, as a condition of licensure, that an individual’s personal qualifications include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation.” • Add another safe harbor provision: “the state may regulate and adopt licensure requirements for any occupation for which the licensure requirements are based on uniform national laws, practices, and/or examinations that have been adopted by at least two-thirds of states and territories in the United States.”
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| | <ul style="list-style-type: none">• Modify the provision calling for enactment of government certification by adding “unless suitable, private certification for the relevant occupation is available. As used in this section, ‘suitable’ means widely recognized as reflecting established standards of competency, skill, or knowledge in the field” or delete the provision entirely. |
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Wyoming	Session Dates	Crossover Deadline	Carryover to 2022
	Jan. 12 – Mar. 5, 2021		No

State	Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
WY	SF 15	12/28/2020	Joint Committee on Corporations, Elections and Political Subdivisions	Passed Senate (03/03/2021); H Received for Introduction (03/04/2021)	In Senate	Amend	Medium
Bill Summary		<ul style="list-style-type: none"> • Category: COVID-19 • Allows a board that is “authorized to establish examination, inspection, permit, or license fees” for regulated professions or occupations to “waive or modify statutory examination or continuing education requirements or other statutory requirements for licensure or permitting” if the following applies: <ul style="list-style-type: none"> ○ The examination is not being given or is not practicably available; ○ Continuing education opportunities are not practicably available; or ○ The statutory requirement could not be met due to public health orders or weather conditions • Permits a licensing or certifying authority to “impose reasonable or necessary restrictions or requirements on a license, certification or practice authority affected by a waiver or modification” under the above conditions • Requires waivers or modifications lasting longer than 2 years to be reported to the appropriate legislative committee 					
Comments and Proposed Changes		<ul style="list-style-type: none"> • To ensure that a temporary measure does not become a permanent removal of certification requirements, amend subsection (b) to add a sentence after (b)(iii): “Any such waiver or modification shall be temporary, and shall require, as a condition of continued licensure or permission, that the licensed or permitted individual satisfy the examination, continuing education, or other statutory requirement within a reasonable time period, to be specified by the board, once the opportunity to satisfy those requirements is again available.” • Add a safe harbor provision: “Nothing in this section shall be construed to require a private certification organization to grant or deny private certification to any individual, nor alter or impair any requirement in a licensure statute or regulation for an individual to hold current private certification as a condition of licensure or renewal of licensure after the temporary waiver or modification period has passed.” 					