

17-3-102. Licensing restrictions based on criminal records.

(a) An individual is not eligible to receive or hold a license issued by a licensing entity if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., or otherwise previously sealed, pardoned or expunged under prior law:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Negligent homicide as prohibited in § 5-10-105;
- (5) Kidnapping as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree as prohibited in § 5-11-103;
- (7) Permanent detention or restraint as prohibited in § 5-11-106;
- (8) Robbery as prohibited in § 5-12-102;
- (9) Aggravated robbery as prohibited in § 5-12-103;
- (10) Battery in the first degree as prohibited in § 5-13-201;
- (11) Aggravated assault as prohibited in § 5-13-204;
- (12) Introduction of a controlled substance into the body of another person as prohibited in § 5-13-210;
- (13) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;
- (14) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (15) Rape as prohibited in § 5-14-103;
- (16) Sexual indecency with a child as prohibited in § 5-14-110, if the offense is a felony;
- (17) Sexual extortion as prohibited in § 5-14-113;
- (18) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;
- (19) Incest as prohibited in § 5-26-202;
- (20) Offenses against the family as prohibited in §§ 5-26-303 — 5-26-306;

- (21) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (22) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (23) Permitting the abuse of a minor as prohibited in § 5-27-221;
- (24) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print media depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
- (25) Possession or use of child sexual abuse material as prohibited in § 5-27-603;
- (26) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
- (27) Felony adult abuse as prohibited in § 5-28-103;
- (28) Theft of property as prohibited in § 5-36-103;
- (29) Theft by receiving as prohibited in § 5-36-106;
- (30) Arson as prohibited in § 5-38-301;
- (31) Burglary as prohibited in § 5-39-201;
- (32) Felony violation of the Uniform Controlled Substances Act, § 5-64-101 et seq., as prohibited in the former § 5-64-401, and §§ 5-64-419 — 5-64-442;
- (33) Promotion of prostitution in the first degree as prohibited in § 5-70-104;
- (34) Stalking as prohibited in § 5-71-229;
- (35) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection; and
- (36) All other crimes referenced in this title.

(b)

- (1) If an individual has been convicted of a crime listed in subsection (a) or subsection (e) of this section, a licensing entity may waive disqualification or revocation of a license based on the conviction if a request for a waiver is made by:
 - (A) An affected applicant for a license; or
 - (B) The individual holding a license subject to revocation.

(2) A basis upon which a waiver may be granted includes without limitation:

- (A) The age at which the offense was committed;
- (B) The circumstances surrounding the offense;
- (C) The length of time since the offense was committed;
- (D) Subsequent work history since the offense was committed;
- (E) Employment references since the offense was committed;
- (F) Character references since the offense was committed;
- (G) Relevance of the offense to the occupational license; and
- (H) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(3) The waiver requirements of this section are not required for a renewal of a license if an individual has been convicted of a crime listed in subsection (a) of this section and has either:

- (A) Completed the waiver requirements of this section at his or her initial licensure;
- (B) Been licensed in this state before the enactment of subsection (a) of this section; or
- (C) Attended a professional or occupational school, program, or training in pursuit of an occupational license before the enactment of subsection (a) of this section and would have been qualified to hold an occupational license on or before July 24, 2019.

(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 more than five (5) years from the date of conviction or incarceration or on which probation ends, whichever date is the latest, if the individual:

- (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.

(d) A licensing entity shall not, as a basis upon which a license may be granted or denied:

- (1) Use vague or generic terms, including without limitation the phrases “moral turpitude” and “good character”; or
- (2) Consider arrests without a subsequent conviction.

(e) Due to the serious nature of the offenses, the following shall result in disqualification for licensure, regardless of the date of conviction or the date on which probation or incarceration ends unless a waiver is granted under subsection (b) of this section:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Kidnapping as prohibited in § 5-11-102;
- (4) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;
- (5) Rape as prohibited in § 5-14-103;
- (6) Sexual extortion as prohibited in § 5-14-113;
- (7) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (8) Incest as prohibited in § 5-26-202;
- (9) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (10) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (11) Adult abuse that constitutes a felony as prohibited in § 5-28-103;
- (12) Arson as prohibited in § 5-38-301; and
- (13) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print media depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403.

(f) This chapter does not preclude a licensing entity from taking emergency action against a licensee as authorized under § 25-15-211 for the sake of public health, safety, or welfare.

(g) The disqualification for an offense listed in subsection (a) of this section and the disqualification for an offense listed in subsection (e) of this section do not apply to:

- (1) An individual who holds a valid license on July 24, 2019;
- (2) An individual who holds a valid license on or before July 24, 2019, but failed to renew his or her license for any reason; or

(3) An individual who was a student on or before July 24, 2019, in a professional or occupational school, program, or training in pursuit of an occupational license and would have been qualified to hold an occupational license on or before July 24, 2019.

(h) This section does not apply to licensure or certification:

(1) Of professions not governed by this title;

(2) Of polygraph examiners and voice stress analysis examiners under § 17-39-101 et seq.;

(3) Of private investigators and private security agencies under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.;

(4) Of body artists under § 17-26-601 et seq. who hold a valid license on or before July 1, 2024; or

(5) Of cosmetologists licensed under Title 17, Chapter 26, Subchapter 3.