

**HB238 ENGROSSED**



1 HB238

2 DG25AHH-2

3 By Representatives Moore (P), Almond, Bedsole, Daniels

4 RFD: Judiciary

5 First Read: 11-Feb-25



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to eligibility for employment of convicted individuals; to amend Sections 12-26-7, 12-26-9, 41-9A-1, and 41-9A-2, Code of Alabama 1975; to add Section 41-9A-2.1 to the Code of Alabama 1975; to create a presumption of fitness for occupational licensure in certain circumstances; to provide immunity to employers in certain circumstances that hire individuals granted an order of limited relief; to provide further for the process under which an occupational licensing board may disqualify an individual convicted of a crime from obtaining a license to practice a profession or occupation; to require the Board of Pardons and Paroles to create a certificate of employability to be issued to certain individuals upon their release on parole from the Department of Corrections; and to provide immunity to employers in certain circumstances that hire individuals who have been issued certificates of employability.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-26-7, 12-26-9, 41-9A-1, and 41-9A-2, Code of Alabama 1975, are amended to read as follows:

"§12-26-7



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29 (a) A petition to obtain an order of limited relief  
30 shall include a sworn statement made under penalty of perjury  
31 by the petitioner stating all of the following:

32 (1) That the petitioner is not subject to the  
33 limitations in Section 12-26-6 and is eligible to seek an  
34 order of limited relief.

35 (2) Whether the petitioner has previously applied for  
36 an order of limited relief in any jurisdiction and whether an  
37 order has been granted previously.

38 (3) A list specifying ~~the~~ any convictions and  
39 collateral consequences to which the order should apply.

40 (b) Once a petition has been filed, ~~the circuit clerk~~  
41 ~~shall serve the petition on the occupational licensing board,~~  
42 ~~as defined in Section 41-9A-1, or other entity responsible for~~  
43 ~~the collateral consequence that the petitioner is seeking~~  
44 ~~relief from. Once service is made,~~ the court shall review  
45 available presentence and other reports on the defendant and  
46 may order a postsentence report to be completed by the Board  
47 of Pardons and Paroles or by the Commissioner of the  
48 Department of Corrections. The postsentence report shall  
49 contain information required by the court, which may include,  
50 but not be limited to, any of the following:

51 (1) A statement of the offense or offenses and  
52 surrounding circumstances.

53 (2) A statement of the petitioner's criminal and  
54 juvenile record.

55 (3) A record of previous applications for orders of  
56 limited relief.



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57 (4) A statement of the petitioner's medical and  
58 psychological history, if available.

59 (5) A statement of the petitioner's history while under  
60 the custody of the Department of Corrections, if any.

61 (6) Any previous probation or sentencing reports  
62 prepared by the Board of Pardons and Paroles.

63 (c) Upon completion, the Board of Pardons and Paroles  
64 shall provide copies of the postsentence report to the court  
65 and to either the petitioner's attorney or the petitioner, if  
66 not represented by an attorney.

67 (d) When a petitioner seeks relief from a conviction  
68 from a jurisdiction other than this state, the circuit court  
69 may require the petitioner to have additional documentation  
70 sent from that jurisdiction, including, but not limited to,  
71 any of the following:

72 (1) Any orders of limited relief, Certificates of  
73 Relief from Disabilities, Certificates of Rehabilitation, or  
74 similar documents issued by that jurisdiction.

75 (2) Any transcripts or other court records.

76 (3) Any sentencing reports, probation records, or  
77 similar documents.

78 (4) Any other available documentation necessary in  
79 considering the merits of the petition.

80 (e) Filing a petition for an order of limited relief  
81 shall constitute a waiver of privilege for any parole or  
82 probation records related to the offenses for which the  
83 petition is filed.

84 (f) Following a ruling by the court on the petition,



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85 any filed parole or probation records or other material that  
86 is otherwise subject to privilege shall be considered  
87 confidential.

88 (g) An individual required to register as a sex  
89 offender pursuant to Chapter 20A of Title 15 or convicted of a  
90 violent offense as defined in Section 12-25-32 is ineligible  
91 to obtain an order of limited relief."

92 "§12-26-9

93 (a) The circuit court shall rule on the merits of the  
94 petition in accordance with subsection (d) within 90 calendar  
95 days of the date the petition was filed. The court, for good  
96 cause, may extend the time within which it must rule on the  
97 petition by order entered prior to the expiration of the  
98 initial 90-day period.

99 (b) If the court determines that a hearing is not  
100 necessary, the court may rule without a hearing.

101 (c) If a hearing is held, the hearing shall be  
102 conducted in a manner prescribed by the trial judge and may  
103 include oral argument and review of relevant documentation in  
104 support of, or in objection to, the granting of the petition.  
105 Leave of the court shall be obtained for the taking of witness  
106 testimony relating to any disputed fact.

107 (d) In ruling on the petition, the court may consider  
108 the following factors, in addition to the information  
109 contained in the postsentence report:

- 110 (1) The nature and seriousness of the offense.
- 111 (2) The circumstances under which the offense occurred.
- 112 (3) Whether the offense or offenses for which the order



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113 is sought were the result of an isolated instance or a pattern  
114 of conduct.

115 (4) The relationship between the offense and collateral  
116 consequence or consequences from which the petitioner seeks  
117 relief.

118 (5) Available probation or parole records, reports, or  
119 recommendations.

120 (6) Evidence of previous orders of limited relief  
121 granted to the petitioner or prior expungement of the  
122 petitioner's record.

123 (7) Any other matter the court deems relevant.

124 (e) The court shall grant the petition if it is  
125 reasonably satisfied from the evidence that granting the  
126 petition will materially assist the petitioner in obtaining or  
127 maintaining employment and in living a law-abiding life, and  
128 will not pose an unreasonable risk to the safety or welfare of  
129 the public or any individual.

130 (f) There is no right to an order of limited relief,  
131 and any request for such an order may be denied at the sole  
132 discretion of the court.

133 (g) The ruling of the court shall be subject to direct  
134 appeal to the Alabama Court of Civil Appeals and shall not be  
135 reversed absent a showing of an abuse of discretion.

136 (h) When the court grants a petition for an order of  
137 limited relief, the petitioner shall be entitled to three  
138 copies of the order from the clerk's office.

139 (i) When an order of limited relief is granted, an  
140 occupational licensing board, as defined in Section 41-9A-1,



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141 may still consider the conduct underlying the conviction upon  
142 which the order was granted ~~in determining whether to deny,~~  
143 ~~revoke, or suspend a license,~~ but the order of limited relief  
144 shall create a presumption of rehabilitation and fitness for  
145 obtaining a license as defined in Section 41-9A-1.

146 (j) In a judicial or administrative proceeding alleging  
147 negligent hiring, an order of limited relief granted to an  
148 individual pursuant to this section may be introduced as  
149 evidence of a person's due care in hiring that individual if  
150 the person knew of the order of limited relief at the time of  
151 the alleged negligent hiring.

152 (k) In any proceeding on a claim against an employer  
153 for negligent hiring based upon the prior conviction of an  
154 employee, an order of limited relief granted to the employee  
155 pursuant to this section shall provide immunity for the  
156 employer with respect to the claim of negligent hiring if the  
157 employer knew of the order of limited relief at the time of  
158 the alleged negligent hiring. This subsection does not provide  
159 immunity to the employer for other claims related to the  
160 conduct of the employee.

161 (1) An employer who hires an individual who has been  
162 granted an order of limited relief is subject to suit in a  
163 civil action based on or relating to the retention of the  
164 individual as an employee only if:

165 (1) The individual, after being hired, demonstrates a  
166 danger to others or is subsequently convicted of a felony; and

167 (2) The individual is retained by the employer after  
168 the demonstration of danger to others or a subsequent



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169 conviction that is substantially similar to the conduct  
170 resulting in the prior conviction upon which the order of  
171 limited relief was granted."

172 "§41-9A-1

173 As used in this chapter, the following terms have the  
174 following meanings:

175 (1) LICENSE. Any license, certificate, or other  
176 evidence of qualification that an individual is required to  
177 obtain before he or she may engage in or represent himself or  
178 herself to be a member of a particular profession or  
179 occupation. The term does not include certification by the  
180 Alabama Peace Officers' Standards and Training Commission or  
181 driver licenses.

182 (2) OCCUPATIONAL LICENSING BOARD. Any state board,  
183 agency, commission, or other entity in this state that is  
184 established for the primary purpose of regulating the entry of  
185 individuals into, or the conduct of individuals within, or  
186 both, a particular profession or occupation, and that is  
187 authorized to issue licenses. The term does not include any  
188 state agency staffed by full-time state employees that, as a  
189 part of its regular functions, may issue licenses and does not  
190 include a board governed by Chapter 9 or Chapter 24 of Title  
191 34."

192 "§41-9A-2

193 (a) Notwithstanding any other law to the contrary, an  
194 occupational licensing board shall not deny an application for  
195 a license due to any of the following:

196 (1) A criminal conviction that is not directly related





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197 to the duties and responsibilities of the profession or  
198 occupation for which the license is required.

199 (2) A criminal conviction that has been pardoned,  
200 sealed, expunged, or otherwise nullified or made confidential  
201 by the jurisdiction from which it originated.

202 (3) An arrest that did not result in a criminal  
203 conviction and for which criminal charges are not currently  
204 pending.

205 (4) An applicant's lack of "good moral character" or  
206 failure to adhere to any similarly vague or generic standard.

207 (b) In determining whether a criminal conviction is  
208 directly related to the duties and responsibilities of the  
209 profession or occupation for which a license is required, an  
210 occupational licensing board shall consider all of the  
211 following factors on a case-by-case basis:

212 (1) The nature and seriousness of the crime for which  
213 the individual was convicted.

214 (2) The nature of the specific duties and  
215 responsibilities for which the license is required.

216 (3) The age of the individual at the time of the  
217 commission of the crime.

218 (4) The passage of time since the commission of the  
219 crime.

220 (5) Any evidence of rehabilitation or treatment  
221 undertaken by the individual that might mitigate the direct  
222 relationship between the criminal conviction and the duties  
223 and responsibilities of the profession or occupation sought.

224 (c) An occupational licensing board that makes



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225 determinations pursuant to this section and Section 41-9A-2.1  
226 shall publish on the occupational licensing board's official  
227 website the standards and factors that shall guide the board  
228 in making such determinations.

229 (d) When applying for a license, an applicant may  
230 attach to the application a valid order of limited relief  
231 granted under Section 12-26-9. A valid order of limited relief  
232 shall create a presumption that an individual's criminal  
233 conviction is not directly related to the duties and  
234 responsibilities for which a license is required.

235 ~~(b) An occupational licensing board may not~~  
236 ~~automatically deny an application for a license or revoke an~~  
237 ~~existing license because of a criminal conviction when a valid~~  
238 ~~order of limited relief has been issued for the otherwise~~  
239 ~~disqualifying conviction or convictions in question; provided,~~  
240 ~~however, an occupational licensing board may consider the~~  
241 ~~conduct underlying a conviction upon which an order of limited~~  
242 ~~relief was granted and may deny, revoke, or suspend a license~~  
243 ~~based on that underlying conduct.~~

244 ~~(c) This section does not apply to law enforcement~~  
245 ~~employment, Alabama Peace Officers' Standards and Training~~  
246 ~~Commission certification, or the issuance of drivers'~~  
247 ~~licenses.~~

248 (e) This section and Section 41-9A-2.1 do not apply to  
249 any licensure requirement imposed by an interstate licensure  
250 compact or other interstate mutual recognition licensure  
251 requirement imposed by law to which Alabama is subject, or to  
252 any licensure requirement imposed by Title 27, Title 8, or



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253 Title 5 or by federal law."

254 Section 2. Sections 41-9A-2.1 is added to the Code of  
255 Alabama 1975, to read as follows:

256 §41-9A-2.1

257 (a) An individual who has been convicted of a criminal  
258 offense, at any time, may request in writing that an  
259 occupational licensing board determine whether the  
260 individual's criminal conviction disqualifies that individual  
261 from obtaining a license from the board. Any individual making  
262 a request shall include any required fee as provided in  
263 subsection (e) and information relevant to the factors listed  
264 in Section 41-9A-2(b). An occupational licensing board, by  
265 rule, may prescribe a standard request form to be used by all  
266 individual's requesting a determination.

267 (b) Not later than 30 days after receiving a request,  
268 an occupational licensing board shall make a determination,  
269 based on the factors provided in Section 41-9A-2, whether the  
270 individual's criminal conviction disqualifies the individual  
271 from obtaining a license and notify the individual, in  
272 writing, of its determination. If the occupational licensing  
273 board disqualifies the individual, the notification must  
274 include an explanation that addresses the factors provided in  
275 Section 41-9A-2.

276 (c) A determination made pursuant to this section that  
277 an individual's criminal conviction does not disqualify the  
278 individual from obtaining a license may be rescinded if, at  
279 the time the individual submits a completed application for  
280 licensure, the individual:



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- 281 (1) Has been convicted of a subsequent crime;
- 282 (2) Is the subject of a pending criminal charge or  
283 charges; or
- 284 (3) Has failed to disclose a prior criminal conviction.
- 285 (d) If an individual submits a completed application  
286 for licensure after an occupational licensing board has  
287 determined pursuant to this section that the individual's  
288 criminal conviction disqualifies him or her from obtaining a  
289 license, the occupational licensing board shall make a de novo  
290 determination as further provided in subsections (a) and (b).
- 291 (e) An occupational licensing board may charge a fee of  
292 not more than twenty dollars (\$20) per request to reimburse  
293 the board for costs incurred in making a determination.
- 294 (f) An occupational licensing board may adopt rules to  
295 implement Section 41-9A-2 and this section.
- 296 Section 3. (a) The Board of Pardons and Paroles shall  
297 create a certificate of employability that shall be issued by  
298 the board to individuals under the custody of the Department  
299 of Corrections who meet eligibility criteria established by  
300 the board, by rule, which demonstrates an individual's  
301 achievements toward successful reentry into the workforce. The  
302 eligibility criteria shall include consideration of:
- 303 (1) An individual's disciplinary record while in the  
304 custody of the Department of Corrections;
- 305 (2) Successful completion of designated programs or  
306 development of a useful skill set while in the custody of the  
307 Department of Corrections; and
- 308 (3) Any other factor the board deems relevant to an



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309 individual's qualification for the certificate.

310 (b) The Board of Pardons and Paroles shall notify  
311 individuals in the custody of the Department of Corrections of  
312 the possibility to earn a certificate of employability. Prior  
313 to being released on parole, the board shall determine whether  
314 an individual meets the eligibility criteria and if so, issue  
315 a certificate of employability when the individual is released  
316 from the custody of the department for use in obtaining  
317 employment.

318 (c) An individual required to register as a sex  
319 offender pursuant to Chapter 20A of Title 15 or convicted of a  
320 violent offense, as defined in Section 12-25-32, is ineligible  
321 to be issued a certificate of employability.

322 (d) The Board of Pardons and Paroles shall revoke a  
323 certificate of employability if the individual to whom the  
324 certificate of employability was issued is convicted of a  
325 felony offense committed after the issuance of the certificate  
326 of employability.

327 (e) (1) In a judicial or administrative proceeding  
328 alleging negligent hiring, a certificate of employability  
329 issued to an individual pursuant to this section may be  
330 introduced as evidence of an employer's due care in hiring  
331 that individual if the employer knew of the certificate at the  
332 time of the alleged negligent hiring.

333 (2) In any proceeding on a claim against an employer  
334 for negligent hiring based upon the prior conviction of an  
335 employee, a certificate of employability issued to an  
336 individual pursuant to this section shall provide immunity for



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337 the employer with respect to the claim of negligent hiring if  
338 the employer knew of the certificate at the time of the  
339 alleged negligent hiring. This subdivision does not provide  
340 immunity to the employer for other claims related to the  
341 conduct of the employee.

342 (3) The revocation of a certificate of employability  
343 does not affect the right of an employer to rely on the  
344 validity of the certificate of employability at the time of  
345 hiring unless the employer knew before the individual was  
346 employed that the certificate of employability was fraudulent  
347 or was revoked.

348 (f) An employer who hires an individual who has been  
349 issued a certificate of employability may be held liable in a  
350 civil action based on or relating to the retention of the  
351 individual as an employee only if:

352 (1) The individual, after being hired, demonstrates a  
353 danger to others or is convicted of a felony;

354 (2) The plaintiff proves by a preponderance of the  
355 evidence that the individual having hiring and firing  
356 responsibility for the employer had actual knowledge that the  
357 employee demonstrated a danger to others or was convicted of a  
358 felony; and

359 (3) That the individual having hiring and firing  
360 responsibility, upon having actual knowledge that the  
361 individual demonstrated a danger to others, nonetheless  
362 retained the individual as an employee.

363 (g) Nothing in this section shall be construed to  
364 constitute a waiver of the sovereign immunity of the state,



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365 consistent with Section 36-1-12, Code of Alabama 1975, and no  
366 action shall be maintained against the state or any agency or  
367 department thereof for issuance of or failure to issue any  
368 certificate of employability.

369 (h) This section shall not apply to any board governed  
370 by Chapter 9 or Chapter 24 of Title 34.

371 Section 4. This act shall become effective on October  
372 1, 2025, and applies to any cause of action pursuant to this  
373 act which occurs on or after October 1, 2025.



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House of Representatives

Read for the first time and referred .....11-Feb-25  
to the House of Representatives  
committee on Judiciary  
  
Read for the second time and placed .....20-Feb-25  
on the calendar:  
2 amendments  
  
Read for the third time and passed .....25-Feb-25  
as amended  
Yeas 97  
Nays 0  
Abstains 4

John Treadwell  
Clerk