



"Watch-List" Bills 2019; updated as of 2/15/2019					
State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
AR	S.B. 175	1/28/2019 Sponsor: Sen. John Cooper (R)	2/5/2019 Amendment #1 read the first time, rules suspended, read the second time and adopted, ordered engrossed; Re-referred to Public Health, Welfare and Labor Committee – Senate	[Bill as amended under consideration as of 02/13/2019] <ul style="list-style-type: none"> Provides that an occupational licensing entity "with authority to waive disqualification or revocation of an occupational licensure for an offense listed within the licensing requirements of the Arkansas Code when a person has pleaded guilty or nolo contendere to or has been found guilty of any listed offense" shall consider factors enumerated in the bill upon the request of an affected applicant for licensure or the person holding a license subject to revocation. The factors to be considered: The age at which the offense was committed; the circumstances surrounding the offense; the length of time since the offense was committed; subsequent work history since the offense was committed; employment references since the offense was committed; character references since the offense was committed; relevance of the offense to the occupational licensure; and other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public. Requires an occupational licensing entity to establish criteria that indicate the passage of a criminal background check based upon the occupational criteria for occupational licensure. 	<ul style="list-style-type: none"> This bill takes a different approach than bills in other states that focus on reducing barriers to reentry for those with criminal convictions, adopting a more individualized assessment process and avoiding any evidentiary presumptions. Nothing in the bill directly touches on private certification organizations, but it would be helpful 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."
AR	S.B. 171	1/28/2019 Sponsor: Sen. John Cooper (R)	1/28/2019 Referred to Senate Public Health, Welfare and Labor Committee	<ul style="list-style-type: none"> Creates the "Sunrise and Sunset Occupational Licensing Commission" ("Commission"); provides for qualifications for appointment to the Commission; provides for Commission procedures. Provides that "no later than December 31st of an even-numbered year [unless an exception is made by the chair of the commission], a member of the General Assembly or the executive branch may submit proposed legislation that would create an occupational licensure or occupational licensing entity, or both, or significantly affect an existing occupational licensure or occupational licensing entity, or both, to the Sunrise and Sunset Occupational Licensing Commission for review." Requires the Commission to review all legislation that would create a new occupational licensure or occupational licensing entity 	<ul style="list-style-type: none"> Results of sunrise and sent reviews do not automatically result in changes to regulations or statutes. The review process does consider public welfare beyond narrow safety or health interests. The review process contains no evidentiary presumptions Would be helpful to add a provision requiring the Commission to request information from any relevant private certification organization that might be affected by the review before submitting its report.



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				<p>and/or significantly affect an existing occupational licensure or occupational licensing entity to determine whether "(A) The unregulated practice of the occupation would be inconsistent with the public health and safety interest; (B) The public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; or (C) The public can be more effectively protected by means other than state regulation."</p> <ul style="list-style-type: none">• "Public health and safety interest" is defined as "protections from items or events that can cause disease, illness, injury to a person or damage to property, or financial harm, or have detrimental effects on the public good."• Requires the Commission to submit recommendations to the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding the need for the regulation of the occupation.• Requires the Commission to review the occupational licensure of all occupational licensing entities on a six-year rotating basis and consider the following to make a recommendation and on the abolition, transfer, continuation, or reorganization of each occupational licensing entity or licensure: "(i) Whether the occupational licensure serves a meaningful, defined public health and safety interest and provides the least restrictive form of regulation that will adequately protect the public health and safety interest; (ii) The extent to which the regulatory objective of the occupational licensure may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other laws; (iii) The extent to which occupational licensure ensures that applicants have occupational skill sets or competencies that correlate with a public health and safety interest and the effect that the occupational licensure has on applicants, particularly individuals with moderate or low incomes who are seeking to enter the occupation or profession; and (iv) The impact of regulation, including the extent to which occupational licensure	



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				<p>stimulates or restricts competition and affect consumer choice and the cost of services."</p> <ul style="list-style-type: none"> • Requires the Commission to make a report to the Governor. 	
AZ	H.B. 2660	2/8/2019 Sponsor: Rep. John Allen (R)	2/14/2019 House Second Reading	<ul style="list-style-type: none"> • Amends existing law that a person with a criminal record may petition an agency, at any time, including before obtaining any required education or experience, taking any examination or paying any fee, for a determination of whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition. 	<ul style="list-style-type: none"> • Change all references to "certificate" to "state-issued certificate" and change all references to "any examination" to "any examination developed and administered by the state." • 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."
AZ	H.B. 2231	1/16/2019 Sponsor: Rep. Anthony Kern (R)	2/12/2019 Committee Report: Rules, constitutional and in proper form, 8-0-0-0- 0-0; House Consent	<ul style="list-style-type: none"> • Amends existing law to provide that the committees established by the legislature to issue sunset review reports on regulatory agencies must consider the extent to which an occupational regulation meets the requirements under the law for regulating non-health professions and occupations. • Provides that "there is a rebuttable presumption that the public is sufficiently protected from unregulated practice by market competition and private remedies, including third-party or consumer-created ratings and reviews of private certification." • Provides that the state shall regulate a profession or occupation only if "there is credible empirical evidence of present, significant and substantiated harm that the unregulated practice threatens the public health, safety or welfare" in the state, that the "actual or anticipated public benefit of the regulation clearly exceeds the costs imposed on consumers, businesses and individuals," that "the public needs and can reasonably be expected to benefit from government regulation," and that "the public cannot be effectively protected by less restrictive regulations." 	<ul style="list-style-type: none"> • The definition in Section 41-3501(8) 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 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." • Section 51-3502(D) should be revised to add that "nothing in this Article 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



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				<ul style="list-style-type: none"> States that certain requirements of the section "do not preempt federal regulations or require a private certification organization to grant or deny private certification to an individual." Adds that "an individual may use the title 'certified' as allowed by a private organization that grants private certification." 	<p>private organization that credentials individuals in the relevant occupation."</p> <ul style="list-style-type: none"> 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."
CA	A.B. 193	1/10/2019 Sponsor: Assemb. Jim Patterson (R)	2/4/2019 Referred to Committee on Committee on Business, Professions and Consumer Protection	<ul style="list-style-type: none"> Requires the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, beginning in 2021, conduct a comprehensive review of all occupational licensing requirements and identify unnecessary licensing requirements that "cannot be adequately justified". Requires the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department's progress, and requires the department to issue a final report to the Legislature no later than January 1, 2033. Requires the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided 	<ul style="list-style-type: none"> Current version does not warrant intervention. The bill provides no parameters to define the criteria on which the department "shall identify unnecessary licensing requirements that cannot be adequately justified." As such, the bill requires a purely procedural review process
CO	H.B. 19-1117	2/4/2019 Sponsor: Rep. Shane Sandridge (R)	2/13/2019 Referred to House Committee on Business Affairs & Labor Postpone Indefinitely	<ul style="list-style-type: none"> Current law requires the department of regulatory agencies ("department") to analyze whether to begin or continue the regulation of a profession or occupation based on several factors. In conducting a review of a regulation, the department must "rebuttably presume that consumers are sufficiently protected by market competition and private remedies." Requires the department to find a present, significant, and substantiated harm to consumers before recommending regulation; 	<ul style="list-style-type: none"> Section 24-34-104.1(G) should be revised to state: "A consumer's limited knowledge about the good or service relative to the seller's greater knowledge, the department may recommend the enactment of government certification unless suitable, private certification for the relevant occupation is available. As used in this section, "suitable" means widely recognized as reflecting



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				<p>the department must recommend only the "least restrictive occupational regulation that addresses the harm."</p> <ul style="list-style-type: none"> Provides guidelines for the "least restrictive" regulation required, including that if "a consumer's limited knowledge about the good or service relative to the seller's greater knowledge, the department may recommend the enactment of a voluntary private or government certification." "Private certification" is listed as the third least restrictive form of regulation. Requires the department to review regulatory agencies and functions for repeal, continuation, or reestablishment. 	<p>established standards of competency, skill, or knowledge in the field."</p> <ul style="list-style-type: none"> Section 24-34-104. (a.5)(l) should be revised to state: "In conducting the analysis and evaluation of the need for the continued existence of an occupational regulation in accordance with this section, the department of regulatory agencies shall rebuttably presume that consumers are sufficiently protected by market competition and private remedies. For purposes of this Chapter, "private remedies" shall include the measures listed in subsection 3(a)(iv)(8)(a)-(f). Nothing in this Chapter 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 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."
IA	S.S.B. 1112	2/5/2019 Sponsor: IA Senate	2/6/2019 Subcommittee Meeting	<ul style="list-style-type: none"> Sets limitations on the ability of cities and counties to regulate professions and occupations. 	<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,



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		Committee on Labor and Business Relations	scheduled for 02/12/2019 11:30AM	<ul style="list-style-type: none"> Prohibits cities and counties from imposing any new licensing requirements or professional or occupational fees beginning January 1, 2020. Limits the ability of licensing authorities to refuse to grant a license on the basis of an applicant's criminal record by requiring licensing authorities to specifically list the offenses that could disqualify an applicant and to specifically detail the grounds for disqualification of each applicant. Provides that a qualified person who commits an additional disqualifying offense during the period of disqualification or who is disqualified based on a violent or sexual crime may not be disqualified for longer than five years following release from incarceration. Provides that an applicant who is denied a license on the basis of a criminal record is entitled to an administrative review and any review in civil court; the licensing authority bears the burden of proof in such proceedings. Requires licensing authorities to respond to inquiries as to whether an individual's criminal record would disqualify the individual from obtaining a license. 	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."
IA	S.S.B. 1126	2/6/2019 Sponsor: IA Senate Committee on Labor and Business Relations	2/6/2019 Subcommittee: Guth, Taylor, T. and Whiting.	<ul style="list-style-type: none"> Sets limitations on the ability of cities and counties to regulate professions and occupations. Prohibits cities and counties from imposing any new licensing requirements or professional or occupational fees beginning January 1, 2020. Limits the ability of licensing authorities to refuse to grant a license on the basis of an applicant's criminal record by requiring licensing authorities to specifically list the offenses that could disqualify an applicant and to specifically detail the grounds for disqualification of each applicant. Provides that a qualified person who commits an additional disqualifying offense during the period of disqualification or who is 	<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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				<p>disqualified based on a violent or sexual crime may not be disqualified for longer than five years following release from incarceration.</p> <ul style="list-style-type: none"> Provides that an applicant who is denied a license on the basis of a criminal record is entitled to an administrative review and any review in civil court; the licensing authority bears the burden of proof in such proceedings. Requires licensing authorities to respond to inquiries as to whether an individual's criminal record would disqualify the individual from obtaining a license. 	
IL	S.B. 1286 and S.B. 1756	<p>S.B. 1886: 2/7/2019</p> <p>Sen. Jason Plummer (R)</p> <p>S.B. 1756: 2/15/2019</p> <p>Sen. Jennifer Bertino-Tarrant (R)</p>	<p>S.B. 1886: 2/13/2019</p> <p>Assigned to Licensed Activities</p> <p>S.B. 1756: 2/15/2019</p> <p>Referred to Senate Committee on Assignments</p>	<ul style="list-style-type: none"> Creates the Regulatory Sunrise Review Act. Provides that the General Assembly shall commence the process established by this Act to investigate and review the necessity of new State regulation over a previously unregulated profession by passage of a resolution. Requires that an applicant that proposes legislation to license a profession or occupation submit a petition for licensure on forms provided by the Department of Financial and Professional Regulation and pay a fee of \$1,000 within 30 days after introduction of the proposed professional regulation legislation. Provides that the Department shall prepare a report within 12 months assessing the need for the proposed new licensure upon receipt of a complete petition and petition fee; the report shall be principally authored by an expert currently associated with an Illinois post-secondary educational institution; the expert must be a labor market economist with a doctoral degree or a person with an advanced quantitative degree and an expertise in post-benefit analysis. Provides the various requirements, factors, criteria, and standards that must be included in a report; for example, (1) whether regulation is necessary or beneficial, including any potential harm or threat to the public if the profession or occupation is not regulated or specific examples of the harm or threat 	<ul style="list-style-type: none"> Current version does not warrant intervention. <p>This bill does not affect current occupational licensure regulations, only newly proposed occupational licensure regulations.</p> <p>The bill allows for consideration of harms or threats and does not create evidentiary presumptions or burdens similar to those in the ALEC model bill.</p> <p>The bill includes an even-handed consideration of benefits and detriments from enacting new licensure.</p> <p>The bill is supportive of and deferential to private certification programs.</p>



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				<p>identified, if any; (2) the efforts that have been made to address any concerns that give rise to the need for regulation, including: (A) voluntary efforts, if any, by members of the profession or occupation to: (i) establish a code of ethics; (ii) help resolve disputes between practitioners and consumers; and (iii) establish requirements for continuing education; (B) the existence of any national accreditation or national certification systems for the profession or occupation; (C) recourse to and the extent of use of existing law; and (D) any prior attempts to regulate the profession or occupation in Illinois; (3) whether alternatives to licensure would be adequate to protect the public interest; and (4) the extent to which regulation might harm the public, including: (A) "whether regulation will restrict entry into the profession or occupation, including: (i) whether the standards are the least restrictive necessary to ensure safe and effective performance; and (ii) whether persons who are registered or licensed in another jurisdiction that has requirements that are substantially equivalent to those of this State will be eligible for endorsement or some form of reciprocity. "</p> <ul style="list-style-type: none"> • Provides that a profession or occupation shall be regulated by the state only when the following criteria are met: "(1) 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; (2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; (3) the public cannot be effectively protected by other means; and (4) regulation of the profession does not impose significant new economic hardships on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare or interest. 	



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				<ul style="list-style-type: none"> Provides that "If there exists a national ... certification system for the profession or occupation that adequately ensures quality and protects the public health, safety, and welfare, regulation by the State shall be restricted to addressing those concerns that are not covered by the national program." 	
IN	S.B. 384	1/14/2019 Sponsors: Sen. Eric Koch (R); Sen. Travis Holdman (R); Sen. Victoria Spartz (R)	1/14/2019 First reading: referred to Committee of Commerce and Technology	<ul style="list-style-type: none"> Provides that a small business ombudsman ("ombudsman") shall review proposed occupational regulations that impose requirements or costs on persons subject to the regulation. Requires the ombudsman to give a report and approve or deny a regulation after determining if it is the "least restrictive regulation" that would protect consumers from "present, significant, and substantiated harms that threaten public health and safety;" the ombudsman shall presume that market competition and private remedies are sufficient to protect consumer, unless an agency "finds credible empirical evidence of a systemic problem that justifies the adoption of an occupational regulation to protect consumers." "If the need is to protect consumers against an imbalance of knowledge about the goods or services relative to the seller's knowledge, the ombudsman's comment to the agency must recommend a rule that requires voluntary private or government certification;" "private certification" is listed as the third least restrictive form of regulation. Adds throughout that any cost evaluation must include the costs on regulated individuals. 	<ul style="list-style-type: none"> See proposed changes offered with respect to Ohio SB 255 and to the IJ/ALEC model bills.
IN	H.B. 1271	1/10/2019 Sponsor: Rep. Timothy Wesco (R)	1/10/2019 First reading: referred to Committee on Employment,	<ul style="list-style-type: none"> Provides that if an individual is required to have an occupational license to practice, the individual may practice the occupation without an occupational license if the individual provides a signed disclosure with the consumer before entering into a contract and complies with all health, safety, security, confidentiality, reporting, and consumer protection requirements that are imposed on an individual with an occupational license. 	<ul style="list-style-type: none"> Sets up a potential slippery slope for traditionally regulated professions. See in-depth Legislative Analysis Memorandum.



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			Labor and Pensions	<ul style="list-style-type: none"> • Lists affected professions (including CPAs, Professional Engineers, plumbers, home inspectors, barbers, and cosmetologists.); • The term "occupational license" means any requirement to obtain a license, permit, registration, certificate, or other authority issued by a state agency or local unit of government to work in an occupation. 	
IN	S.B. 576	1/14/2019 Sponsor: Sen. Jim Merritt (R)	1/14/2019 Referred to Senate Committee on Commerce and Technology	<ul style="list-style-type: none"> • Eliminates the professional licensing agency ("PLA") and establishes the health professions licensing agency ("HPLA") within the state department of health to license health professionals and the workforce licensing agency ("WLA") within the department of workforce development to license occupations that are not health professions. • Calls for regular review and evaluation of occupational licensure boards and of "the necessity, burden, and alternatives to the licenses issued by the board." 	<ul style="list-style-type: none"> • Does not warrant intervention at present.
MA	H.D. 2352	1/17/2019	1/17/2019 Draft filed	<ul style="list-style-type: none"> • Titled the "Uniform Collateral Consequences of Convictions Act," the bill addresses penalties or disadvantages "imposed on an individual as a result of the individual's conviction of an offense which applies by operation of law," regardless of whether the consequence was stated in the judgment or sentence for the convicted individual. "Collateral consequence," "collateral sanction," and "disqualification" are all defined terms having a nexus with state action. • Applies to "decision-makers," defined as "the state acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees, or a government contractor, including a subcontractor, made subject to this chapter by contract, by law other than this chapter, or by ordinance." • Provides that in deciding whether to impose a disqualification, a "decision-maker" shall undertake an individualized assessment to 	<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



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				<p>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.</p> <ul style="list-style-type: none"> • 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. • Provides that an individual convicted of an offense may petition the trial court for a certificate of restoration of rights relieving collateral sanctions not sooner than 5 years after the individual's most recent conviction of a felony or misdemeanor in any jurisdiction, or not sooner than five years after the individual's release from confinement pursuant to a criminal sentence in any jurisdiction, whichever is later. 	<p>role of decision-makers as defined in Section 2(e)."</p> <ul style="list-style-type: none"> • 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."
MD	H.B. 0022	11/19/2018 Sponsor: Del. Charles Sydnor (D)	1/16/2019 Hearing 1/22	<ul style="list-style-type: none"> • Current law states that "a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime." • Eliminates the "solely on the basis [of a previous conviction]" language and substitutes a bright-line rule prohibiting denial of a license based on a conviction that occurred more than seven years ago, unless the department determines that there is a direct relationship between the applicant's previous conviction and the specific occupational license and certificate sought, or the issuance of the license or certificate would involve an unreasonable risk to property or to "the safety or welfare of specific individuals or the general public." • "Department" means the Department of Agriculture, Department of the Environment, Maryland Department of Health, Department of 	<ul style="list-style-type: none"> • It is unclear whether the department would have to engage in the individualized assessment if a certification program denies or revokes eligibility for certification based on a criminal conviction, and certification is a precondition for licensure. • 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



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				Human Services, Department of Labor, Licensing, and Regulations, or the Department of Public Safety and Correctional Services.	condition of licensure or renewal of licensure."
MI	S.B. 0040	1/22/2019 Sponsor: Sen. Lana Theis (R)	1/22/2019 Referred to Senate Committee on Regulatory Reform	<ul style="list-style-type: none"> Requires the Michigan Law Revision Commission ("Commission") to review new legislation to determine whether the legislation uses the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harms that threaten public health and safety; the Commission may require the legislation's proponents to submit "evidence of present, significant, and substantiated harms to consumers in the state," along with "information from other individuals who are knowledgeable about the occupation, labor economics, and other relevant factors." Requires the Commission to complete a report to the committee to which the legislation was referred. Requires the Commission to review annually (beginning January 1, 2020) the occupational regulations of approximately 20% of the occupations that are subject to state regulation, and over each 5-year period review all occupational regulations that are subject to state regulation; to evaluate whether those regulations "use the least restrictive regulation "necessary to protect consumers from present, significant, and substantiated harms that threaten public health and safety," and to submit a report with recommendations to the legislature to not enact new legislation or enact legislation that repeals, rescinds, or modifies the regulation. The Commission shall "employ a rebuttable presumption that market competition and private remedies are sufficient to protect consumers." "Private certification" is listed as the third least restrictive form of regulation. Defines "Certification" as "a voluntary program in which a private organization or the government of this state grants nontransferable recognition to an individual who meets personal qualifications 	<ul style="list-style-type: none"> Section 404(3)(E) should be revised to state: "Asymmetrical information between a seller and a buyer, by enacting government certification 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." Section 404(3) should be revised to state: "In its analysis under subsections (1) and (2), the Commission shall employ a rebuttable presumption that market competition and private remedies are sufficient to protect consumers: For purposes of this Chapter, "private remedies" shall include the measures listed in subsection 404(5)(c)(i-v). Nothing in this Chapter 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." In Section 404(5)(G), change all "Registered" in all instances to "government registered" so as not to ban use of the title "registered" that is conferred by private certification organizations.



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				<p>established by the private organization or the government of this state."</p> <ul style="list-style-type: none"> • Defines "Registration" as registering with the state and provides that "a nonregistered individual may not perform the occupation for compensation or use "registered" as a designated title." 	<ul style="list-style-type: none"> • 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."
MO	H.B. 472	1/08/2019 Sponsors: Rep. Derek Grier (R); Lynn Morris (R)	1/5/2019 Public Hearing Completed	<ul style="list-style-type: none"> • Provides that no person shall 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, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation. • Applies to any profession for which an occupational license is issued in the state, including any new occupational license created by a state licensing authority after August 28, 2019. • States that "notwithstanding any other provision of law, political subdivisions shall be prohibited from creating any new occupational license after August 28, 2019." 	<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."
MO	H.B. 564 and S.B. 251	1/14/2019 H.B. 564 Sponsor: Rep. Derek Grier (R) S.B. 251 Sponsor: Sen. Andrew Koenig (R)	H.B. 564: 2/13/2019 HCS Voted Do Pass S.B. 561: 2/7/2019 Second Read and Referred to Senate Professional	<ul style="list-style-type: none"> • Requires all state licensing authorities to revise existing licensing requirements before January 1, 2020 to explicitly list the specific criminal convictions that could disqualify the applicant from receiving a license. • The licensing authority must use "clear and convincing standard of proof in examining the factors to determine whether an applicant with a criminal conviction" will be denied a license. • A disqualification from receiving a license due to criminal conviction shall not last longer than five years from the date of the conviction provided that the conviction is not for a crime that is violent or sexual in nature and the individual has not been 	<ul style="list-style-type: none"> • The companion bills codify the ALEC/IJ ex-offender related principles. • 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 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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			Registration Committee	<p>convicted of any other crime during the five-year disqualification period.</p> <ul style="list-style-type: none"> Permits "an individual with a criminal record" to "petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license." 	
MN	H.F. 981 and H.F. 982	<p>H.F. 981: 2/11/2019</p> <p>Rep. Jerry Hertaus (R)</p> <p>H.F. 982: 2/11/2019</p> <p>Rep. Jamie Long (D)</p>	<p>2/11/2019</p> <p>Referred by Chair to Public Safety and Criminal Justice Reform Finance and Policy Division</p>	<ul style="list-style-type: none"> Titled the "Uniform Collateral Consequences of Convictions Act," the bill addresses penalties or disadvantages "imposed on an individual as a result of the individual's conviction of an offense which applies by operation of law," regardless of whether the consequence was stated in the judgment or sentence for the convicted individual. "Collateral consequence," "collateral sanction," and "disqualification" are all defined terms having a nexus with state action. Applies to "decision-makers," defined as "the state acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees, or a government contractor, including a subcontractor, made subject to this chapter by contract, by law other than this chapter, or by ordinance." 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. 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 	<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



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State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
				<p>occupational licensing. The petition may be brought before the court at any time after sentencing.</p> <ul style="list-style-type: none"> The judge may issue an order of limited relief relieving one or more of the collateral sanctions described listed in the bill if, after reviewing the petition, the individual's criminal history, and any other relevant evidence, "the judge 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." Provides that an individual convicted of an offense may petition the trial court for a certificate of restoration of rights relieving collateral sanctions not sooner than 5 years after the individual's most recent conviction of a felony or misdemeanor in any jurisdiction, or not sooner than five years after the individual's release from confinement pursuant to a criminal sentence in any jurisdiction, whichever is later. 	<p>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."</p>
MS	H.B. 375	1/8/2019 Sponsor: Rep. Robert Foster (R)	2/5/2019 Died in Committee	<ul style="list-style-type: none"> Requires that all rules adopted under the provisions of The Administrative Procedures Act shall automatically repeal on December 31 of the fifth year following the rule's initial adoption (if adopted after July 1, 2019) or on December 31, 2024 (if adopted before July 1, 2019), unless the rule has been readopted at least sixty days before its scheduled repeal. Requires that by January 15 of each year, each agency provides a list and summary of each rule scheduled to expire that year to the chairs of the appropriate standing committees of the legislature. 	<ul style="list-style-type: none"> Does not warrant intervention at present.
MS	H.B. 898	1/21/2019	2/1/2019	<ul style="list-style-type: none"> Requires the Mississippi Joint Committee on Performance Evaluation and Expenditure Review ("PEER") to establish an accountability review schedule of all state agencies. 	<ul style="list-style-type: none"> Does not warrant intervention at present.



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State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
		Sponsors: Rep. Robert Foster (R); Rep. Chris Brown (R)	Transmitted to Senate	<ul style="list-style-type: none"> Requires PEER to provide a comprehensive written report annually which details its review of the agencies designated for review that year and addresses the review criteria outlined in the bill; agencies may submit relevant information to PEER. Establishes criteria for PEER's review of state agencies, including "an identification of the mission, goals and objectives intended for the agency and of the problem or need that the agency was intended to address and the extent to which the mission, goals and objectives have been achieved and the problem or need has been addressed." Provides that all rules adopted under the Act shall automatically repeal on December 31 of the fifth year following the rule's initial adoption unless the rule has been readopted at least 60 days before its scheduled repeal. Provides that by January 15 of each year, each agency shall provide a list and summary of each rule scheduled to expire that year to the chairs of the appropriate standing committees of the legislature. 	
MS	H.B. 1290	1/21/2019 Sponsor: Rep. Kevin Ford (R)	2/11/2019 Passed House and Transmitted to Senate	<ul style="list-style-type: none"> Current law requires each agency to review all of its rules to determine whether any rule should be repealed, amended or a new rule adopted at least every five (5) years; with every occupational licensing board to conduct that review at least every three (3) years. The bill would add the requirement that each agency must develop answers to certain questions (e.g. "Was the rule promulgated in conjunction with a program that addresses a public need. If so, was the rule created in consideration of research which is evidence based, research based, a promising practice, or none of the above and why?"; "Does the rule potentially violate federal antitrust law and, if so, how and why?"; "Does the rule impose an undue amount of compliance cost, paperwork, or other burden on individuals which it regulates?") and post those answers on the agency's website and "Transparency Mississippi" not later than 	<ul style="list-style-type: none"> The posting requirement appears primarily intended to force agencies to undergo the burdensome yet, in many respects, useful exercise of giving thought to the purpose and effect of regulations. Other than by imposing an administrative and justification burden on agencies, the bill adopts no pro- or anti-regulation requirements or presumptions. Does not warrant intervention at present.



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				<p>thirty (30) days after the rule is amended or adopted. Failure to comply will result in loss of the agency's funding.</p> <ul style="list-style-type: none"> Requires the Occupational Licensing Review Commission to review all of its rules to determine whether any rule should be repealed, amended or a new rule adopted and to submit a report of the review to the Occupational Licensing Review Commission at least every three years. 	
MS	H.B. 1352	<p>1/21/2019</p> <p>Sponsors: Rep. Jason White (R); Kabir Karriem (D); Rep. Cheikh Taylor (D); Rep. Bill Kinkade (R); Rep. Deborah Dixon (D); Rep. David Baria (D); Rep. Randy Boyd (R); Rep. Patricia Willis (R); Rep. Kathy Sykes (D); Rep. Carl Mickens (D); Rep. Cedric Burnett (D);</p>	<p>2/8/2019</p> <p>Passed in House and Transmitted to Senate</p>	<ul style="list-style-type: none"> Provides that an occupational licensing board shall "not automatically bar an individual from obtaining a license because of a nonviolent conviction" that occurred more than three years from the date of application for the license. Requires all occupational licensing boards to "offer a process to petition the board for individualized consideration;" an individual with a criminal record may petition the board at any time, including before obtaining any required education or training, for a decision on whether the criminal record will be disqualifying. 	<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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		Rep. John Hines (D); Rep. Orlando Paden (D)			
MS	H.B. 1284 S.B. 2781	1/21/2019 H.B. 1284 Sponsors: Rep. Mark Baker (R); Rep. Kathy Sykes (D); Rep. Carl Mickens (D)	H.B. 1284: 2/14/2019 Passed As Amended and Transmitted to Senate S.B. 2781: 1/31/2019 Referred To Accountability, Efficiency, Transparency	[Bill as amended under consideration as of 02/12/2019] <ul style="list-style-type: none"> Provides that "absent applicable state law, no person shall 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, unless the crime for which an applicant was convicted directly relates to the duties and responsibilities for the licensed occupation." Prohibits licensing authorities (defined as an "agency, examining board, credentialing board, or other office with the authority to impose occupational fees or licensing requirements on any profession") from including in rules for qualifications for licensure "vague or generic terms, including but not limited to, 'moral turpitude,' 'any felony,' and 'good character.'" Requires licensing authorities to "use the clear and convincing standard of proof in examining the factors to determine whether an applicant with a disqualifying criminal conviction will be denied an license;" such determination may be made by the following factors: (1) "the nature and seriousness of the crime..."; (2) "the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation," and (3) "any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against a direct relations." Provides that an individual "may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license;" requires the licensing authority to "inform the individual of his standing within thirty days of receiving the petition." 	<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." Add to definition of "licensing authorities" that "; provided, however, this term does not include any private, non-governmental organization."



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State	Bill #	Introduced	Status	Summary	Comments and Proposed Changes
				<ul style="list-style-type: none"> Requires each licensing authority with authority to disqualify a person from pursuing or practicing an occupation for which a license is required solely or in part because of a prior criminal conviction to begin a review of its statutory authority and rules in order to propose statutory changes consistent with guidelines enumerated in the bill. 	
MS	S.B. 2781	1/21/2019 Sponsor: Sen. John Polk (R)	2/13/2019 Passed Senate and Transmitted to House	<ul style="list-style-type: none"> Prohibits licensing authorities (defined as an "agency, examining board, credentialing board, or other office with the authority to impose occupational fees or licensing requirements on any profession") from including in rules for qualifications for licensure "vague or generic terms, including but not limited to, 'moral turpitude,' 'any felony,' and 'good character.'" <ul style="list-style-type: none"> Requires licensing authorities to "use the clear and convincing standard of proof in examining the factors to determine whether an applicant with a disqualifying criminal conviction will be denied an license;" such determination may be made by the following factors: (1) "the nature and seriousness of the crime..."; (2) "the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation," and (3) "any evidence of rehabilitation or treatment undertaken by the individual that might mitigate against a direct relations." Provides that an individual "may petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license;" requires the licensing authority to "inform the individual of his standing within thirty days of receiving the petition." 	<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." Add to definition of "licensing authorities" that "; provided, however, this term does not include any private, non-governmental organization."
MS	S.B. 2911	1/21/2019 Sponsor: Sen. Juan Barnet (D)	2/5/2019 Died in Committee	<ul style="list-style-type: none"> Prohibits an occupational licensing board from automatically barring an individual from obtaining a license because of a nonviolent criminal record that is two years or older. Defines "license" to mean "any license (other than a privilege license), certificate or other evidence of qualification that an 	<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



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				<p>individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation."</p> <ul style="list-style-type: none"> • Authorizes an individual with a criminal record to petition an occupational licensing board at any time for a decision of whether the individual's criminal record will disqualify the individual. • Provides that an occupational licensing board may deny the individual's petition only if it finds that issuing a license to the individual would be an actual threat to the health and safety of the public and the profession. 	<p>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"> • Amend the definition of "license" to clarify that it does not include private credentials: "any license (other than a privilege license), certificate or other evidence of qualification that an individual is required to obtain from the state before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation."
MT	L.C. 2298	12/5/2018 Sponsor: Sen. Kenneth Bogner (R)	1/4/2019 Draft on Hold	<ul style="list-style-type: none"> • "Generally, revise professions and occupations licensing laws." 	<ul style="list-style-type: none"> • No text is available.
MT	L.C. 3214	1/22/2019 Sponsor: Rep. Mark Sweeney (D)	1/22/2019 Draft Request Received	<ul style="list-style-type: none"> • "Generally Revise Occupational and Licensing Boards." 	<ul style="list-style-type: none"> • No text available.
ND	S.B. 2353	1/21/2019 Sponsors: Sen. J. Lee (R); Sen. Randall; Sen. Gary J. Nelson (R);	1/31/2019 Referred to Government and Veterans Affairs Committee.	<ul style="list-style-type: none"> • States that "notwithstanding law to the contrary, a board shall issue a license to an applicant who is a foreign practitioner, unless the board determines the issuance of the license would jeopardize the health and safety of the residents of this state. If the board determines licensure under this section would jeopardize the health and safety of the residents of this state, the board may deny the application or may issue a provisional license, issue a restricted 	<ul style="list-style-type: none"> • Definition of "foreign practitioner" broad enough to include practitioners holding authorization to practice from outside the U.S. • Warrants further consideration as to whether language should be tightened to specify only U.S. jurisdictions, if there are concerns about lax requirements in non-U.S. jurisdictions.



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		Sen. Randall Burckhard (R); Joan Heckaman (D); Rep. Mike Nathe (R); Rep. Mark Sanford (R)	Committee Hearing held.	license, or otherwise authorize limited practice to protect the health and safety of the residents of this state." <ul style="list-style-type: none"> • Defines "Board" as "a board, commission, or other agency of state government created or identified in this title to regulate an occupation or profession;" establishes process for governor appointment of Board members. • Provides that a Board must "establish and implement a strategic plan to regulate occupations and professions in the least restrictive manner appropriate to promote public health and safety." • Provides the terms of licensure and establishes a renewal process. • Provides for Board training, grievance procedure, and disciplinary proceedings. 	
ND	H.B. 1253	1/03/2019 Sponsors: Rep. Tom Kading (R); Rep. Jake Blum (R); Rep. Aaron McWilliams (R); Rep. Mary Schneider (D); Sen. Jordan Kannianen (R)	02/14/2019 Amendment adopted, placed on calendar 13 10.	[Bill as amended under consideration as of 02/13/2019] <ul style="list-style-type: none"> • Amends the section of the code that lists exceptions to the provision that prior conviction of a crime is not a bar to state licensures. • Adds that an individual who is applying for a license that requires an education or training period of not more than four years may petition a state agency, board, commission, department, or other licensing entity before submitting an application or entering a training program for a particular license for a determination of whether the individual's criminal record will disqualify the individual from obtaining state licensure. • Lists the information that must be included in the petition and facts that may not be considered by the state agency, board, commission, department, or other licensing entity. • The state agency, board, commission, department, or other licensing entity may not find an individual's criminal record disqualifies the individual from state licensure, unless it determines that the state's interest in protecting public safety is superior to the individual's fundamental right to pursue a lawful occupation and it 	<ul style="list-style-type: none"> • Safe harbor provision should go further: "this section may not be construed to require a private certification organization to grant or deny a private certification to an 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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				<p>establishes by clear and convincing evidence that the individual was convicted of a relevant felony or violent misdemeanor and that the license will put the individual in a position where the individual is more likely to reoffend and cause harm.</p> <ul style="list-style-type: none"> Includes that "this section may not be construed to require a private or national certification organization to grant or deny a private or national certification to an individual." 	
NH	H.B. 662	1/16/2019 Sponsors: Rep. Beth Rodd (D); Rep. Sandra Keans (D); Rep. Linn Opderbecke (D)	2/06/2019 Hearing held.	<ul style="list-style-type: none"> Establishes a commission to study "possibilities for reforming the state's occupational licensing requirements and procedures to reduce barriers to licensure and to increase New Hampshire's economic competitiveness." 	<ul style="list-style-type: none"> The commission appears to have a balanced membership and does not seem to be pushing an ideological agenda; the focus is on portability, reciprocity, and standardization of vocabulary. We do not view this bill as concerning to the PCC membership.
NH	L.S.R. 0824	12/4/2018 Sponsor: Rep. Beth Rodd (D)	1/3/2019 Pre-filed	<ul style="list-style-type: none"> Establishing a Committee to Study Occupational Licensing Reforms 	<ul style="list-style-type: none"> No text is available.
NJ	A.3872	5/7/2018 Sponsors: Assemb. Yvonne Lopez (D); Assemb. Thomas Giblin (D); Assemb.	5/7/2018 Referred to Assembly Regulated Professions Committee	<ul style="list-style-type: none"> Provides that no person shall be disqualified from holding any certificate, registration or license solely because of a prior conviction of a crime, unless the crime directly relates to the profession or occupation. Requires a board to consider the following when determining if a conviction directly relates to the profession or occupation: (1) "the nature and seriousness of the crime and the passage of time since its commission; (2) "the relationship of the crime to the purposes of regulating the profession or occupation," (3) "any evidence of rehabilitation of the person in the period of time following the prior 	<ul style="list-style-type: none"> 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 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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		Carol Murphy (D); Assemb. Angela McKnight (D)		conviction," and 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 regulated by the board." <ul style="list-style-type: none"> Requires that the board provide notice to an applicant of its intent to reject the applicant because of the applicant's prior conviction of a crime; the applicant must have a reasonable opportunity to be heard before the board prior to the board making a final decision. 	
NM	H.B. 382	1/28/2019 Sponsor: Rep. Andrea Romero (D)	1/28/2019 Referred to House Committee	<ul style="list-style-type: none"> Amends existing law to expand the list of criminal records that shall not be considered in application for any public employment, license or other authority to include "a conviction that has been sealed, dismissed, expunged, or pardoned; " a juvenile adjudication;" or " a conviction that occurred more than three years before the date of the petition except for a conviction of (a) a felony committed with violence against a person, threatened violence or a likelihood of serious bodily injury; in which the defendant was personally armed with or personally used a deadly weapon in the commission of the crime; or in which the defendant personally inflicted great bodily injury in the commission of the crime; or (b) a felony in violation of any provision of Chapter 30, Article 9 NMSA 1978 [sexual offenses]." Provides that "an individual with a criminal record may petition a board at any time, including before obtaining any required education or training, for a decision of whether the individual's criminal record will disqualify the individual from obtaining a license." Prohibits a board from determining that an individual's criminal record is disqualifying for obtaining a license, unless the board establishes by "clear and convincing evidence" that: (1) the individual was convicted of a non-violent non-sexual offense felony less than three years before the date of the petition that is "directly, substantially and adversely related to the state's interest in 	<ul style="list-style-type: none"> 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 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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				protecting public safety"; and (2) granting the license would "put the individual in a position in which the individual would more likely than not cause harm."	
OK	H.B. 1373	1/16/2019 Sponsor: Rep. Zack Taylor (R)	2/5/2019 Second Reading referred to Business and Commerce Passed Committee (14 Ayes, 0 Nays, 0 Abstentions, 0 Absences)	<ul style="list-style-type: none"> • Requires all state entities that are charged with oversight of occupational licenses to explicitly list the specific criminal records that are "directly related to the duties and responsibilities for the licensed occupation" that would disqualify an applicant from receiving certification. • Provides that "if an individual has a valid criminal conviction for a crime that would disqualify the individual from receiving a license, the disqualification shall not last longer than five (5) years from the date of conviction, provided that the conviction is not for a crime that is violent or sexual in nature and the individual has not been convicted of any other crime during the five-year disqualification period." • Permits "an individual with a criminal record" to "petition a licensing authority at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license." • Includes provisions specific to particular practice acts. 	<ul style="list-style-type: none"> • 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 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."
OK	H.B. 2134	2/4/2019 (pre-filed) Sponsor: Rep. Cyndi Munson (D)	2/5/2019 Second Reading referred to Business and Commerce	<ul style="list-style-type: none"> • Provides 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, unless it is a conviction directly related to the occupation for which the license is sought;" unless there is a constitutional or statutory provision explicitly stating that certain convictions are automatic bars to licensing. • Requires that the licensing authority consider the following when determining if a conviction directly relates to the position or the occupation for which the license is sought: (1) "Whether the conviction is directly related to the duties and responsibilities of the occupation," (2) "whether the occupation offers the opportunity for 	<ul style="list-style-type: none"> • 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 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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				<p>the same or a similar offense to occur," and (3) "the length of time since the offense occurred."</p> <ul style="list-style-type: none"> Requires the licensing authority to provide notice to an applicant of its intent to reject the applicant solely or in part because of the applicant's prior conviction; an applicant may not be rejected "if the applicant can provide evidence of mitigation or rehabilitation and present fitness to perform the duties of the occupation for which the license is sought." 	
OK	S.B. 651	2/4/2019 (pre-filed) Sponsor: Sen. Nathan Dahm (R)	2/5/2019 Second Reading; Referred to Business, Commerce and Tourism Committee then to Appropriations Committee	<ul style="list-style-type: none"> Called the "Right to Earn A Living Act" 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 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." 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. 	<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. Safe harbors should be added to protect both regulatory recognition of private certifications and statutory prohibitions on deceptive trade practices.



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				<ul style="list-style-type: none"> • 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. 	
OK	S.B. 101	2/4/2019 (pre-filed) Sponsor: Sen. Micheal Bergstrom (R)	2/5/2019 Second Reading referred to Business, Commerce and Tourism	<ul style="list-style-type: none"> • Amends the causes for the suspension, revocation, or refusal of renewal for architects licensed under the State Architectural and Registered Interior Designers Act, barbers under the Oklahoma Cosmetology and Barbering Act, professionals whose licenses are issued by the Oklahoma Funeral Board, and engineers or land surveyors. • Provides that no felony conviction shall operate to deny the issuance or reinstatement of licenses or registrations for these professions after ten years from the date of such conviction, unless the conviction continues to pose a reasonable threat to public safety or continued education, or other requirements have not been met. • Provides that all state entities that are charged with oversight of occupational licenses shall establish procedures by which individuals who were convicted of a felony or misdemeanor offense, and thereby lost an occupational license, may appeal or apply to have such license reinstated in the event such conviction 	<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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				<p>is subsequently reclassified or decriminalized by the Legislature or by the vote of the people.</p> <ul style="list-style-type: none"> • After ten years from the date that a conviction or plea was entered, where the underlying cause of the crime was substance abuse or mental illness, a revoked occupational license shall be reinstated unless the conviction or underlying conduct continues to pose a reasonable threat to public safety or the person is deemed unqualified to practice the occupation for failure to complete continued education requirements or failure to address the underlying alcohol, drug or mental illness that resulted in loss of licensure or certification in the occupation. 	
OR	S.B. 502	1/14/2019 Sponsor: Sen. Herman Baertschiger (R)	1/16/2019 Referred to Senate Business and General Government Committee	<ul style="list-style-type: none"> • Abolishes state agencies in accordance with a provided schedule; requires agencies subject to abolition to make a report to the Sunset Advisory Committee. • Creates the Sunset Advisory Committee. • Requires the Sunset Advisory Committee to conduct a performance evaluation of agencies based on specified criteria, including "whether there are less restrictive or alternative methods of regulation that could adequately protect the public." • Sunset Advisory Committee must conduct public hearings and make recommendations to the Governor and Legislative Assembly relating to abolition, continuation or reorganization of agencies and other matters. 	<ul style="list-style-type: none"> • The automatic and presumptive abolition of state agencies is concerning, and the bill provides little guidance on how the Sunset Advisory Committee will determine whether regulation is "the least restrictive form of regulation that will adequately protect the public." • Add a safe harbor provision: "Nothing in this Chapter 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 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



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					least two-thirds of states and territories in the United States.".
SC	H.B. 3163	12/18/2018 Sponsor: Leader J. Todd Rutherford (D)	1/8/2019 Referred to Committee on Labor, Commerce and Industry	<ul style="list-style-type: none"> • Provides that no person may be disqualified from public employment, nor may a person 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, 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. • A person who has been convicted of a crime that directly relates to the public employment sought or to the occupation for which a license is sought must not be disqualified from the employment or occupation if the person 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. • "License" means all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the state before a person can pursue, practice, or engage in any occupation. 	<ul style="list-style-type: none"> • The "in part because" language would seem to include disqualification for lack of a required certification, if loss of eligibility for certification stemmed from a criminal conviction. • 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."
SC	S.B. 0330	1/18/2019 Sponsors: Sen. Thomas Davis (R); Sen. Chauncey Gregory (R); Sen. Wes Climer (R)	1/8/2019 Referred to Committee on Labor, Commerce and Industry	<ul style="list-style-type: none"> • Enacts the "Occupational Licensure and Reform Act." • Accelerates the Department of Labor, Licensing, and Regulation's review cycle of all regulations from every five years to every two years. • Requires a Senate Committee to "identify whether present, significant, or substantiated harms [justify the regulation and] consider alternative provisions that would be the least restrictive." 	<ul style="list-style-type: none"> • Add a safe harbor provision, as in Ohio SB 255 – "nothing in this chapter is intended to 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, field, or industry" and • Add another safe harbor provision: "the state may regulate and adopt licensure



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					<p>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."</p> <p>or</p> <ul style="list-style-type: none"> • Modify the "present, significant, or substantiated harms" language.
SD	S.B. 166	1/30/2019 Sponsors: Whip Jon Hansen (R); Sen. Wayne Steinhauer (R); Rep. Spencer Gosch (R); Rep. Chris Johnson (R); Rep. Sam Marty (R)	2/11/2019 Scheduled for Hearing.	<ul style="list-style-type: none"> • States that the legislature "shall review and make recommendations for the improvement of occupational licensing in the state." 	<ul style="list-style-type: none"> • Does not warrant intervention at present.
TX	S.B. 523	1/29/2019 Sponsor: Sen. Jose Rodriguez (D)	2/13/2019 Referred to Business and Commerce	<ul style="list-style-type: none"> • Amends existing law to state that "a licensing authority may not deny a person a license or the opportunity to be examined for a license" because of a prior criminal conviction, unless the licensing authority provides written notice of the intended denial and allows the person not less than thirty days to submit any relevant information. 	<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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TX	H.B. 1153	1/29/2019 Sponsor: Rep. James White (R)	1/29/2019 Filed	<ul style="list-style-type: none"> Amends the Occupations Code. Prohibits a licensing authority from suspending or revoking a license, disqualifying a person from receiving a license, or denying to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of an offense unless the offense: "is on the list prepared by the licensing authority under Section 53.022" and "the person applies for the licensure before the later of the fifth anniversary of the date of: (A) conviction; or (B) the person's release from confinement if the person's sentence for the offense included a term of confinement;" is "listed in Article 42A.054 Code of Criminal Procedure"; or "a sexually violent offense, as defined Article 62.001, Code of Criminal Procedure. Requires the licensing authority to prepare and make available to the public a list of offenses that directly relate to the duties and responsibilities of each occupation licensed by the authority and on conviction of which the licensing authority may take action. Provides that in "an administrative appeal or a judicial review of a decision by a licensing authority to take an action authorized by Section 53.021(a), the authority has the burden of proving by clear and convincing evidence that: (1) the offense that the person has been convicted of directly relates to the duties and responsibilities of the licensed occupation; and (2)After consideration of the relevant factors as required by law, the person lacks the fitness to perform the duties and discharge the responsibilities of the licensed occupation." 	<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."
UT	H.B. 90	1/9/2019 Sponsor: Rep. Eric Hutchings (R)	2/11/2019 House Second Reading	<ul style="list-style-type: none"> Provides for an individual with a criminal conviction to apply to the Division of Occupational and Professional Licensing for a determination of whether the individual's criminal history would disqualify the individual from receiving a specific occupational or professional license if all other requirements were met. 	<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



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					condition of licensure or renewal of licensure."
UT	S.B. 158	2/12/2019 Sen. Wayne Harper (R)	2/15/2019 Senate received fiscal note from Fiscal Analyst; Senate Business and Labor Committee	<ul style="list-style-type: none"> Modifies the Occupational and Professional Licensure Review Committee Act to define "health or safety of the public" to include "projecting against physical injury, property damage, or financial harm of the public." 	<ul style="list-style-type: none"> The definition of "health or safety of the public" should be broadened to "protections from items or events that can cause disease, illness, injury to a person or damage to property, or financial harm, or have detrimental effects on the public good," as defined in Arkansas S.B. 171.
VA	H.B. 2028	1/9/19 Sponsors: Del. Ronnie Campbell (R); Del. Tony Wilt (R)	1/28/2019 Read third time and passed House (90-Y 7-N) on 1/25/19 Referred to Committee on Rules.	<ul style="list-style-type: none"> Provides that when any legislative bill requiring the Department of Professional and Occupational Regulation to increase or begin regulation of an occupation is filed during any session of the General Assembly, the Board for Professional and Occupational Regulation shall prepare an evaluation of the legislation using criteria outlined in § 54.1-311 that the Board is required to use whenever the Board determines that a particular occupation should be regulated or that a different degree of regulation should be imposed on a currently regulated occupation. 	<ul style="list-style-type: none"> Existing Virginia law – § 5.4.1-300 and § 54.1-311 - set up the state to compete with private certification; the fourth degree of regulation provides that when "the public requires a substantial basis for relying on the professional services of a practitioner, the Board may implement a system of certification;" "certification" solely refers to government certification. Section § 54.1-300 should be amended to change the defined term "Certification" to "Governmental Certification" and to add the definition: "Private Certification means a voluntary program in which a private organization grants nontransferable recognition to an individual who establishes that the individual possesses personal qualifications relevant to performance of the occupation to which the certification pertains, including by demonstrating a



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					<p>specified level of knowledge and skill required to meet standards in the profession, as established by the private organization."</p> <ul style="list-style-type: none"> Section § 54.1-311(A)(4) should be amended to delete the current text and state "Governmental Certification. -- When the public requires a substantial basis for relying on the professional services of a practitioner, the Board may implement a system of governmental certification, 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." Section § 54.1-311 is amended to add a new Section § 54.1-311(C): "Nothing in this chapter 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."
VA	S.B. 1751	1/18/2019 Sponsors: Sen. Frank Ruff (R); Sen. Ryan	2/13/2019 Passed House with substitute (97-Y 0-N); House substitute	[Bill as amended under consideration as of 02/13/2019] <ul style="list-style-type: none"> Permits the Director of DPOR, or his designee, to issue a notice to any person unlawfully engaging in unlicensed practice of an occupation to cease and desist such activity. Provides that following the close of any biennium, when the account for any regulatory board within DPOR shows that moneys collected on behalf of the regulatory board exceed 20 percent or 	<ul style="list-style-type: none"> Another potential vehicle to fix the problems with existing Virginia law – § 5.4.1-300 and § 54.1-311. See comments on VA H.B. 2028.



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		McDougle (R)	agreed to by Senate (37-Y 1-N); Passed Senate (38-Y 2-N) on 2/1/2019	\$100,000, whichever is greater, of the expenses allocated to the regulatory board for the past biennium, the regulatory board shall (i) reduce the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses and (ii) distribute all unspent or unencumbered revenue in excess of such limits to current regulants of the board.	
WA	H.B. 1770	1/30/2019 Sponsor: Rep. Jim Walsh	2/14/2019 Scheduled for public hearing in the House Committee on Consumer Protection & Business at 1:30 PM on 2/20/2019 (Subject to change).	<ul style="list-style-type: none"> • Defines "private certification" as "a nontransferable recognition granted to an individual by a private organization through a voluntary program in which the individual meets personal qualifications established by the private organization." • With respect to healthcare professionals, imports the definition of certification in existing statute RCW 18.120.020: "Certificate" and 'certification' mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use 'certified' in the title or designation to perform prescribed health professional tasks." • Defines "'Registration" as a nontransferable registration granted to an individual under which (i) the individual is required to give notice to the government that may include the individual's name and address, the individual's agent for service of process, the location of the activity to be performed, and a description of the service the individual provides; (ii) upon receipt of the notice by the government, the individual may use the term registered as a designated title to engage in a lawful occupation; and (iii) such notice is required to engage in the lawful occupation for compensation and is required in order to use the term registered as a designated title to engage in the lawful occupation." • Private certification" is listed as the third least restrictive form of regulation, "consistent with the health, safety, and welfare of the public." "Unfair or deceptive acts or practices under chapter 19.86 RCW 13" are listed as the fifth least restrictive form of regulation. 	<ul style="list-style-type: none"> • 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 standards in the profession, as established by the private organization." • Add a provision to amend RCW 18.120.020 to provide: "Notwithstanding any other provision of this chapter, nothing shall preclude an individual holding a current certification issued by a private certification organization from using the title or designation "certified" in as permitted by the private organization in connection with a credential that the organization has issued to the individual." • 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



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				<ul style="list-style-type: none"> Requires, beginning in 2020, each standing committee of the legislature to "annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee 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, occupational licenses, and registrations the occupational board 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 occupational regulations meet 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." Provides that an "individual who has a criminal conviction may submit to the appropriate occupational board a preliminary application for an occupational license, government certification, or state recognition of the individual's personal qualifications for a determination as to whether the individual's criminal conviction would disqualify the individual." 	<p>include obtaining or maintaining private certification from a private organization that credentials individuals in the relevant occupation."</p> <ul style="list-style-type: none"> 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." Change "Registered" and "registration" in all instances to "government registered" and "government registration" so as not to ban use of the title "registered" that is conferred by private certification organizations. 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." 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



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					licensure, nor shall it be construed to limit, impair, or preclude enactment or enforcement of unfair or deceptive acts or practices under chapter 19.86 RCW 13 or implementing regulations."
WV	H.B. 2697 and S.B. 492	H.B. 2697: 1/28/2019 Sponsors: Del. Gary Howell (R); Del. Geoffrey Foster (R); Del. Pat McGeehan (R); Del. Zachary Maynard (R); Del. Christopher Toney (R); Del. D.R. Jennings (R); Terrishie Sypolt (R); Del. Scott Cadle (R); Del. Jeffrey Pack (R); Del. Evan Worrell (R)	H.B. 2697: 1/28/2019 To House Industry and Labor Committee S.B. 492: 1/31/2019 To Government Organization Committee	<ul style="list-style-type: none"> Requires that, "to provide a service for which state law otherwise requires an occupational license, an unlicensed person must make a nonlicensed disclosure using no less than a 14-point font set in boldface that (A) The unlicensed person is working in a lawful occupation without a license; (B) The state otherwise requires that providers of the service hold an occupational license; and (C) The unlicensed person is allowed to provide the service under §30-1-22 of this code." Provides that the disclosure can be made by one or more of the following means: notice on the homepage of the unlicensed person's website, posting the notice at the entry of the person's facility, sending a letter or email to the consumer prior to providing the services, or stating it in a written contract with the consumer. Provides that production of a "nonlicense disclosure shall require immediate dismissal with prejudice of any administrative, civil or criminal action brought by a state authority for the purpose of enforcing the personal qualifications necessary to obtain and maintain an occupational license against an unlicensed person engaged in a lawful occupation." Permits any consumers injured by an unlicensed person operating under this code section to bring a small-claims or district court civil action and recover damages. Lists five healthcare professions for which the bill does not apply: medical doctors, registered nurses, licensed practical nurses, dentists, and pharmacists. All other licensed professions are subject to the act. 	<ul style="list-style-type: none"> This very far-reaching statute would allow unlicensed individuals in West Virginia to practice without a license, except in five identified healthcare professions, without any assurance that the consumer has in fact seen the required nonlicensed disclosure. It raises the same concerns as identified about Indiana H.B. 1271 in the Legislative Analysis Memorandum on that bill.



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		S.B. 492: 1/30/2019 Sponsor: Sen. Mark Maynard (R)		<ul style="list-style-type: none">States that "nothing in this section shall be construed to require [...] a private certification organization to grant or deny its private certification to any person."	