

S.B. 5
As Passed by the Senate

Topic: Certificate of Qualification for Employment fees

_____ moved to amend as follows:

In line 1 of the title, delete "section" and insert 1
"sections"; after "2907.22" insert "and 2953.25" 2

In line 2 of the title, after "prostitution" insert "and set 3
a uniform fee for a certificate of qualification for employment" 4

After line 60, insert: 5

"Sec. 2953.25. (A) As used in this section: 6

(1) "Collateral sanction" means a penalty, disability, or 7
disadvantage that is related to employment or occupational 8
licensing, however denominated, as a result of the individual's 9
conviction of or plea of guilty to an offense and that applies by 10
operation of law in this state whether or not the penalty, 11
disability, or disadvantage is included in the sentence or 12
judgment imposed. 13

"Collateral sanction" does not include imprisonment, 14
probation, parole, supervised release, forfeiture, restitution, 15
fine, assessment, or costs of prosecution. 16

(2) "Decision-maker" includes, but is not limited to, the 17
state acting through a department, agency, board, commission, or 18
instrumentality established by the law of this state for the 19

exercise of any function of government, a political subdivision, 20
an educational institution, or a government contractor or 21
subcontractor made subject to this section by contract, law, or 22
ordinance. 23

(3) "Department-funded program" means a residential or 24
nonresidential program that is not a term in a state correctional 25
institution, that is funded in whole or part by the department of 26
rehabilitation and correction, and that is imposed as a sanction 27
for an offense, as part of a sanction that is imposed for an 28
offense, or as a term or condition of any sanction that is imposed 29
for an offense. 30

(4) "Designee" means the person designated by the deputy 31
director of the division of parole and community services to 32
perform the duties designated in division (B) of this section. 33

(5) "Division of parole and community services" means the 34
division of parole and community services of the department of 35
rehabilitation and correction. 36

(6) "Offense" means any felony or misdemeanor under the laws 37
of this state. 38

(7) "Political subdivision" has the same meaning as in 39
section 2969.21 of the Revised Code. 40

(8) "Discretionary civil impact," "licensing agency," and 41
"mandatory civil impact" have the same meanings as in section 42
2961.21 of the Revised Code. 43

(B)(1) An individual who is subject to one or more collateral 44
sanctions as a result of being convicted of or pleading guilty to 45
an offense and who either has served a term in a state 46
correctional institution for any offense or has spent time in a 47
department-funded program for any offense may file a petition with 48

the designee of the deputy director of the division of parole and
community services for a certificate of qualification for
employment.

(2) An individual who is subject to one or more collateral
sanctions as a result of being convicted of or pleading guilty to
an offense and who is not in a category described in division
(B)(1) of this section may file for a certificate of qualification
for employment by doing either of the following:

(a) In the case of an individual who resides in this state,
filing a petition with the court of common pleas of the county in
which the person resides or with the designee of the deputy
director of the division of parole and community services;

(b) In the case of an individual who resides outside of this
state, filing a petition with the court of common pleas of any
county in which any conviction or plea of guilty from which the
individual seeks relief was entered or with the designee of the
deputy director of the division of parole and community services.

(3) A petition under division (B)(1) or (2) of this section
shall be made on a copy of the form prescribed by the division of
parole and community services under division (J) of this section
~~and~~, shall contain all of the information described in division
(F) of this section, and, except as provided in division (B)(6) of
this section, shall be accompanied by an application fee of fifty
dollars.

(4)(a) Except as provided in division (B)(4)(b) of this
section, an individual may file a petition under division (B)(1)
or (2) of this section at any time after the expiration of
whichever of the following is applicable:

(i) If the offense that resulted in the collateral sanction

from which the individual seeks relief is a felony, at any time 78
 after the expiration of one year from the date of release of the 79
 individual from any period of incarceration in a state or local 80
 correctional facility that was imposed for that offense and all 81
 periods of supervision imposed after release from the period of 82
 incarceration or, if the individual was not incarcerated for that 83
 offense, at any time after the expiration of one year from the 84
 date of the individual's final release from all other sanctions 85
 imposed for that offense. 86

(ii) If the offense that resulted in the collateral sanction 87
 from which the individual seeks relief is a misdemeanor, at any 88
 time after the expiration of six months from the date of release 89
 of the individual from any period of incarceration in a local 90
 correctional facility that was imposed for that offense and all 91
 periods of supervision imposed after release from the period of 92
 incarceration or, if the individual was not incarcerated for that 93
 offense, at any time after the expiration of six months from the 94
 date of the final release of the individual from all sanctions 95
 imposed for that offense including any period of supervision. 96

(b) The department of rehabilitation and correction may 97
 establish criteria by rule adopted under Chapter 119. of the 98
 Revised Code that, if satisfied by an individual, would allow the 99
 individual to file a petition before the expiration of six months 100
 or one year from the date of final release, whichever is 101
 applicable under division (B)(4)(a) of this section. 102

(5)(a) A designee that receives a petition for a certificate 103
 of qualification for employment from an individual under division 104
 (B)(1) or (2) of this section shall review the petition to 105
 determine whether it is complete. If the petition is complete, the 106
 designee shall forward the petition, the application fee, and any 107

other information the designee possesses that relates to the 108
petition, to the court of common pleas of the county in which the 109
individual resides if the individual submitting the petition 110
resides in this state or, if the individual resides outside of 111
this state, to the court of common pleas of the county in which 112
the conviction or plea of guilty from which the individual seeks 113
relief was entered. 114

(b) A court of common pleas that receives a petition for a 115
certificate of qualification for employment from an individual 116
under division (B)(2) of this section, or that is forwarded a 117
petition for such a certificate under division (B)(5)(a) of this 118
section, shall attempt to determine all other courts in this state 119
in which the individual was convicted of or pleaded guilty to an 120
offense other than the offense from which the individual is 121
seeking relief. The court that receives or is forwarded the 122
petition shall notify all other courts in this state that it 123
determines under this division were courts in which the individual 124
was convicted of or pleaded guilty to an offense other than the 125
offense from which the individual is seeking relief that the 126
individual has filed the petition and that the court may send 127
comments regarding the possible issuance of the certificate. 128

A court of common pleas that receives a petition for a 129
certificate of qualification for employment under division (B)(2) 130
of this section shall notify the county's prosecuting attorney 131
that the individual has filed the petition. 132

A court of common pleas that receives a petition for a 133
certificate of qualification for employment under division (B)(2) 134
of this section, or that is forwarded a petition for qualification 135
under division (B)(5)(a) of this section may direct the clerk of 136
court to process and record all notices required in or under this 137
section. Except as provided in division (B)(6) of this section, 138

the court shall pay thirty dollars of the application fee into the 139
state treasury and twenty dollars of the application fee into the 140
county general revenue fund. 141

(6) Upon receiving a petition for a certificate of 142
qualification for employment filed by an individual under division 143
(B)(1) or (2) of this section, a court of common pleas or the 144
designee of the deputy director of the division of parole and 145
community services who receives the petition may waive all or part 146
of the fifty-dollar filing fee for an applicant who is indigent. 147
If an application fee is partially waived, the first twenty 148
dollars of the fee that is collected shall be paid into the county 149
general revenue fund. Any partial fee collected in excess of 150
twenty dollars shall be paid into the state treasury. 151

(C)(1) Upon receiving a petition for a certificate of 152
qualification for employment filed by an individual under division 153
(B)(2) of this section or being forwarded a petition for such a 154
certificate under division (B)(5)(a) of this section, the court 155
shall review the individual's petition, the individual's criminal 156
history, all filings submitted by the prosecutor or by the victim 157
in accordance with rules adopted by the division of parole and 158
community services, the applicant's military service record, if 159
applicable, and whether the applicant has an emotional, mental, or 160
physical condition that is traceable to the applicant's military 161
service in the armed forces of the United States and that was a 162
contributing factor in the commission of the offense or offenses, 163
and all other relevant evidence. The court may order any report, 164
investigation, or disclosure by the individual that the court 165
believes is necessary for the court to reach a decision on whether 166
to approve the individual's petition for a certificate of 167
qualification for employment. 168

(2) Upon receiving a petition for a certificate of 169

qualification for employment filed by an individual under division 170
 (B)(2) of this section or being forwarded a petition for such a 171
 certificate under division (B)(5)(a) of this section, except as 172
 otherwise provided in this division, the court shall decide 173
 whether to issue the certificate within sixty days after the court 174
 receives or is forwarded the completed petition and all 175
 information requested for the court to make that decision. Upon 176
 request of the individual who filed the petition, the court may 177
 extend the sixty-day period specified in this division. 178

(3) Subject to division (C)(5) of this section, a court that 179
 receives an individual's petition for a certificate of 180
 qualification for employment under division (B)(2) of this section 181
 or that is forwarded a petition for such a certificate under 182
 division (B)(5)(a) of this section may issue a certificate of 183
 qualification for employment, at the court's discretion, if the 184
 court finds that the individual has established all of the 185
 following by a preponderance of the evidence: 186

(a) Granting the petition will materially assist the 187
 individual in obtaining employment or occupational licensing. 188

(b) The individual has a substantial need for the relief 189
 requested in order to live a law-abiding life. 190

(c) Granting the petition would not pose an unreasonable risk 191
 to the safety of the public or any individual. 192

(4) The submission of an incomplete petition by an individual 193
 shall not be grounds for the designee or court to deny the 194
 petition. 195

(5) A certificate of qualification for employment shall not 196
 create relief from any of the following collateral sanctions: 197

(a) Requirements imposed by Chapter 2950. of the Revised Code 198

and rules adopted under sections 2950.13 and 2950.132 of the Revised Code;	199 200
(b) A driver's license, commercial driver's license, or probationary license suspension, cancellation, or revocation pursuant to section 4510.037, 4510.07, 4511.19, or 4511.191 of the Revised Code if the relief sought is available pursuant to section 4510.021 or division (B) of section 4510.13 of the Revised Code;	201 202 203 204 205
(c) Restrictions on employment as a prosecutor or law enforcement officer;	206 207
(d) The denial, ineligibility, or automatic suspension of a license that is imposed upon an individual applying for or holding a license as a health care professional under Title XLVII of the Revised Code if the individual is convicted of, pleads guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code, or is subject to treatment or intervention in lieu of conviction for a violation of section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, 2911.11, or 2919.123 of the Revised Code;	208 209 210 211 212 213 214 215 216 217
(e) The immediate suspension of a license, certificate, or evidence of registration that is imposed upon an individual holding a license as a health care professional under Title XLVII of the Revised Code pursuant to division (C) of section 3719.121 of the Revised Code;	218 219 220 221 222
(f) The denial or ineligibility for employment in a pain clinic under division (B)(4) of section 4729.552 of the Revised Code;	223 224 225
(g) The mandatory suspension of a license that is imposed on an individual applying for or holding a license as a health care	226 227

professional under Title XLVII of the Revised Code pursuant to 228
 section 3123.43 of the Revised Code. 229

(6) If a court that receives an individual's petition for a 230
 certificate of qualification for employment under division (B)(2) 231
 of this section or that is forwarded a petition for such a 232
 certificate under division (B)(5)(a) of this section denies the 233
 petition, the court shall provide written notice to the individual 234
 of the court's denial. The court may place conditions on the 235
 individual regarding the individual's filing of any subsequent 236
 petition for a certificate of qualification for employment. The 237
 written notice must notify the individual of any conditions placed 238
 on the individual's filing of a subsequent petition for a 239
 certificate of qualification for employment. 240

If a court of common pleas that receives an individual's 241
 petition for a certificate of qualification for employment under 242
 division (B)(2) of this section or that is forwarded a petition 243
 for such a certificate under division (B)(5)(a) of this section 244
 denies the petition, the individual may appeal the decision to the 245
 court of appeals only if the individual alleges that the denial 246
 was an abuse of discretion on the part of the court of common 247
 pleas. 248

(D)(1) A certificate of qualification for employment issued 249
 to an individual lifts the automatic bar of a collateral sanction, 250
 and a decision-maker shall consider on a case-by-case basis 251
 whether to grant or deny the issuance or restoration of an 252
 occupational license or an employment opportunity, notwithstanding 253
 the individual's possession of the certificate, without, however, 254
 reconsidering or rejecting any finding made by a designee or court 255
 under division (C)(3) of this section. 256

(2) The certificate constitutes a rebuttable presumption that 257

the person's criminal convictions are insufficient evidence that 258
the person is unfit for the license, employment opportunity, or 259
certification in question. Notwithstanding the presumption 260
established under this division, the agency may deny the license 261
or certification for the person if it determines that the person 262
is unfit for issuance of the license. 263

(3) If an employer that has hired a person who has been 264
issued a certificate of qualification for employment applies to a 265
licensing agency for a license or certification and the person has 266
a conviction or guilty plea that otherwise would bar the person's 267
employment with the employer or licensure for the employer because 268
of a mandatory civil impact, the agency shall give the person 269
individualized consideration, notwithstanding the mandatory civil 270
impact, the mandatory civil impact shall be considered for all 271
purposes to be a discretionary civil impact, and the certificate 272
constitutes a rebuttable presumption that the person's criminal 273
convictions are insufficient evidence that the person is unfit for 274
the employment, or that the employer is unfit for the license or 275
certification, in question. 276

(E) A certificate of qualification for employment does not 277
grant the individual to whom the certificate was issued relief 278
from the mandatory civil impacts identified in division (A)(1) of 279
section 2961.01 or division (B) of section 2961.02 of the Revised 280
Code. 281

(F) A petition for a certificate of qualification for 282
employment filed by an individual under division (B)(1) or (2) of 283
this section shall include all of the following: 284

(1) The individual's name, date of birth, and social security 285
number; 286

(2) All aliases of the individual and all social security 287

numbers associated with those aliases;	288
(3) The individual's residence address, including the city, county, and state of residence and zip code;	289 290
(4) The length of time that the individual has resided in the individual's current state of residence, expressed in years and months of residence;	291 292 293
(5) A general statement as to why the individual has filed the petition and how the certificate of qualification for employment would assist the individual;	294 295 296
(6) A summary of the individual's criminal history with respect to each offense that is a disqualification from employment or licensing in an occupation or profession, including the years of each conviction or plea of guilty for each of those offenses;	297 298 299 300
(7) A summary of the individual's employment history, specifying the name of, and dates of employment with, each employer;	301 302 303
(8) Verifiable references and endorsements;	304
(9) The name of one or more immediate family members of the individual, or other persons with whom the individual has a close relationship, who support the individual's reentry plan;	305 306 307
(10) A summary of the reason the individual believes the certificate of qualification for employment should be granted;	308 309
(11) Any other information required by rule by the department of rehabilitation and correction.	310 311
(G)(1) In a judicial or administrative proceeding alleging negligence or other fault, a certificate of qualification for employment issued to an individual under this section may be introduced as evidence of a person's due care in hiring,	312 313 314 315

retaining, licensing, leasing to, admitting to a school or 316
program, or otherwise transacting business or engaging in activity 317
with the individual to whom the certificate of qualification for 318
employment was issued if the person knew of the certificate at the 319
time of the alleged negligence or other fault. 320

(2) In any proceeding on a claim against an employer for 321
negligent hiring, a certificate of qualification for employment 322
issued to an individual under this section shall provide immunity 323
for the employer as to the claim if the employer knew of the 324
certificate at the time of the alleged negligence. 325

(3) If an employer hires an individual who has been issued a 326
certificate of qualification for employment under this section, if 327
the individual, after being hired, subsequently demonstrates 328
dangerousness or is convicted of or pleads guilty to a felony, and 329
if the employer retains the individual as an employee after the 330
demonstration of dangerousness or the conviction or guilty plea, 331
the employer may be held liable in a civil action that is based on 332
or relates to the retention of the individual as an employee only 333
if it is proved by a preponderance of the evidence that the person 334
having hiring and firing responsibility for the employer had 335
actual knowledge that the employee was dangerous or had been 336
convicted of or pleaded guilty to the felony and was willful in 337
retaining the individual as an employee after the demonstration of 338
dangerousness or the conviction or guilty plea of which the person 339
has actual knowledge. 340

(H) A certificate of qualification for employment issued 341
under this section shall be revoked if the individual to whom the 342
certificate of qualification for employment was issued is 343
convicted of or pleads guilty to a felony offense committed 344
subsequent to the issuance of the certificate of qualification for 345

employment. The department of rehabilitation and correction shall 346
periodically review the certificates listed in the database 347
described in division (K) of this section to identify those that 348
are subject to revocation under this division. Upon identifying a 349
certificate of qualification for employment that is subject to 350
revocation, the department shall note in the database that the 351
certificate has been revoked, the reason for revocation, and the 352
effective date of revocation, which shall be the date of the 353
conviction or plea of guilty subsequent to the issuance of the 354
certificate. 355

(I) A designee's forwarding, or failure to forward, a 356
petition for a certificate of qualification for employment to a 357
court or a court's issuance, or failure to issue, a petition for a 358
certificate of qualification for employment to an individual under 359
division (B) of this section does not give rise to a claim for 360
damages against the department of rehabilitation and correction or 361
court. 362

(J) The division of parole and community services shall adopt 363
rules in accordance with Chapter 119. of the Revised Code for the 364
implementation and administration of this section and shall 365
prescribe the form for the petition to be used under division 366
(B)(1) or (2) of this section. The form for the petition shall 367
include places for all of the information specified in division 368
(F) of this section. 369

(K) The department of rehabilitation and correction shall 370
maintain a database that identifies granted certificates and 371
revoked certificates and tracks the number of certificates granted 372
and revoked, the industries, occupations, and professions with 373
respect to which the certificates have been most applicable, and 374
the types of employers that have accepted the certificates. The 375

department shall annually create a report that summarizes the 376
information maintained in the database and shall make the report 377
available to the public on its internet web site." 378

In line 61, delete "section" and insert "sections"; after 379
"2907.22" insert "and 2953.25" 380

In line 62, delete "is" and insert "are" 381

The motion was _____ agreed to.