

**As Introduced**

**136th General Assembly**

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**H. B. No. 268**

**Representatives Humphrey, Click**

**Cosponsors: Representatives Williams, McNally, Newman, Brennan, Fischer,  
Rader, Russo, White, E.**

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To amend section 2953.25 of the Revised Code to	1
modify when a person may file a petition for a	2
certificate of qualification for employment.	3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

<b>Section 1.</b> That section 2953.25 of the Revised Code be	4
amended to read as follows:	5

<b>Sec. 2953.25.</b> (A) As used in this section:	6
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(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	10
by 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 25  
correctional institution, that is funded in whole or part by the 26  
department of rehabilitation and correction, and that is imposed 27  
as a sanction for an offense, as part of a sanction that is 28  
imposed for an offense, or as a term or condition of any 29  
sanction that is imposed 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 37  
laws 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 44  
collateral sanctions as a result of being convicted of or 45  
pleading guilty to an offense and who either has served a term 46  
in a state correctional institution for any offense or has spent 47

time in a department-funded program for any offense may file a 48  
petition with the designee of the deputy director of the 49  
division of parole and community services for a certificate of 50  
qualification for employment. 51

(2) An individual who is subject to one or more collateral 52  
sanctions as a result of being convicted of or pleading guilty 53  
to an offense and who is not in a category described in division 54  
(B) (1) of this section may file for a certificate of 55  
qualification for employment by doing either of the following: 56

(a) In the case of an individual who resides in this 57  
state, filing a petition with the court of common pleas of the 58  
county in which the person resides or with the designee of the 59  
deputy director of the division of parole and community 60  
services; 61

(b) In the case of an individual who resides outside of 62  
this state, filing a petition with the court of common pleas of 63  
any county in which any conviction or plea of guilty from which 64  
the individual seeks relief was entered or with the designee of 65  
the deputy director of the division of parole and community 66  
services. 67

(3) A petition under division (B) (1) or (2) of this 68  
section shall be made on a copy of the form prescribed by the 69  
division of parole and community services under division (J) of 70  
this section, shall contain all of the information described in 71  
division (F) of this section, and, except as provided in 72  
division (B) (6) of this section, shall be accompanied by an 73  
application fee of fifty dollars and may be accompanied by a 74  
local court fee of not more than fifty dollars. 75

(4) (a) Except as provided in division (B) (4) (b) of this 76

section, an individual may file a petition under division (B) (1) 77  
or (2) of this section at any time after the expiration of 78  
whichever of the following is applicable: 79

(i) If the offense that resulted in the collateral 80  
sanction from which the individual seeks relief is a felony, at 81  
any time after the expiration of one year from the date of 82  
release of the individual from any period of incarceration in a 83  
state or local correctional facility that was imposed for that 84  
offense ~~and all periods of supervision imposed after release~~ 85  
~~from the period of incarceration or~~, if the individual was not 86  
incarcerated for that offense, at any time after the expiration 87  
of one year from the date of the individual's final release from 88  
all other sanctions imposed for that offense. 89

(ii) If the offense that resulted in the collateral 90  
sanction from which the individual seeks relief is a 91  
misdemeanor, at any time after the expiration of six months from 92  
the date of release of the individual from any period of 93  
incarceration in a local correctional facility that was imposed 94  
for that offense and all periods of supervision imposed after 95  
release from the period of incarceration or, if the individual 96  
was not incarcerated for that offense, at any time after the 97  
expiration of six months from the date of the final release of 98  
the individual from all sanctions imposed for that offense 99  
including any period of supervision. 100

(b) The department of rehabilitation and correction may 101  
establish criteria by rule adopted under Chapter 119. of the 102  
Revised Code that, if satisfied by an individual, would allow 103  
the individual to file a petition before the expiration of six 104  
months or one year from the date of final release, whichever is 105  
applicable under division (B) (4) (a) of this section. 106

(5) (a) A designee that receives a petition for a 107  
certificate of qualification for employment from an individual 108  
under division (B) (1) or (2) of this section shall review the 109  
petition to determine whether it is complete. If the petition is 110  
complete, the designee shall forward the petition, the 111  
application fee, and any other information the designee 112  
possesses that relates to the petition, to the court of common 113  
pleas of the county in which the individual resides if the 114  
individual submitting the petition resides in this state or, if 115  
the individual resides outside of this state, to the court of 116  
common pleas of the county in which the conviction or plea of 117  
guilty from which the individual seeks relief was entered. 118

(b) A court of common pleas that receives a petition for a 119  
certificate of qualification for employment from an individual 120  
under division (B) (2) of this section, or that is forwarded a 121  
petition for such a certificate under division (B) (5) (a) of this 122  
section, shall attempt to determine all other courts in this 123  
state in which the individual was convicted of or pleaded guilty 124  
to an offense other than the offense from which the individual 125  
is seeking relief. The court that receives or is forwarded the 126  
petition shall notify all other courts in this state that it 127  
determines under this division were courts in which the 128  
individual was convicted of or pleaded guilty to an offense 129  
other than the offense from which the individual is seeking 130  
relief that the individual has filed the petition and that the 131  
court may send comments regarding the possible issuance of the 132  
certificate. 133

A court of common pleas that receives a petition for a 134  
certificate of qualification for employment under division (B) 135  
(2) of this section shall notify the county's prosecuting 136  
attorney that the individual has filed the petition. 137

A court of common pleas that receives a petition for a  
certificate of qualification for employment under division (B)  
(2) of this section, or that is forwarded a petition for  
qualification under division (B) (5) (a) of this section may  
direct the clerk of court to process and record all notices  
required in or under this section. Except as provided in  
division (B) (6) of this section, the court shall pay thirty  
dollars of the application fee into the state treasury and  
twenty dollars of the application fee into the county general  
revenue fund.

(6) Upon receiving a petition for a certificate of  
qualification for employment filed by an individual under  
division (B) (1) or (2) of this section, a court of common pleas  
or the designee of the deputy director of the division of parole  
and community services who receives the petition may waive all  
or part of the application fee of fifty dollars described in  
division (B) (3) of this section, for an applicant who presents a  
poverty affidavit showing that the applicant is indigent. If an  
applicant pays an application fee, the first twenty dollars or  
two-fifths of the fee, whichever is greater, that is collected  
shall be paid into the county general revenue fund. If an  
applicant pays an application fee, the amount collected in  
excess of the amount to be paid into the county general revenue  
fund shall be paid into the state treasury.

(C) (1) Upon receiving a petition for a certificate of  
qualification for employment filed by an individual under  
division (B) (2) of this section or being forwarded a petition  
for such a certificate under division (B) (5) (a) of this section,  
the court shall review the individual's petition, the  
individual's criminal history, except for information contained  
in any record that has been sealed under section 2953.32 of the

Revised Code, all filings submitted by the prosecutor or by the 169  
victim in accordance with rules adopted by the division of 170  
parole and community services, the applicant's military service 171  
record, if applicable, and whether the applicant has an 172  
emotional, mental, or physical condition that is traceable to 173  
the applicant's military service in the armed forces of the 174  
United States and that was a contributing factor in the 175  
commission of the offense or offenses, and all other relevant 176  
evidence. The court may order any report, investigation, or 177  
disclosure by the individual that the court believes is 178  
necessary for the court to reach a decision on whether to 179  
approve the individual's petition for a certificate of 180  
qualification for employment, except that the court shall not 181  
require an individual to disclose information about any record 182  
sealed under section 2953.32 of the Revised Code. 183

(2) Upon receiving a petition for a certificate of 184  
qualification for employment filed by an individual under 185  
division (B) (2) of this section or being forwarded a petition 186  
for such a certificate under division (B) (5) (a) of this section, 187  
except as otherwise provided in this division, the court shall 188  
decide whether to issue the certificate within sixty days after 189  
the court receives or is forwarded the completed petition and 190  
all information requested for the court to make that decision. 191  
Upon request of the individual who filed the petition, the court 192  
may extend the sixty-day period specified in this division. 193

(3) Except as provided in division (C) (5) of this section 194  
and subject to division (C) (7) of this section, a court that 195  
receives an individual's petition for a certificate of 196  
qualification for employment under division (B) (2) of this 197  
section or that is forwarded a petition for such a certificate 198  
under division (B) (5) (a) of this section may issue a certificate 199

of qualification for employment, at the court's discretion, if 200  
the court finds that the individual has established all of the 201  
following by a preponderance of the evidence: 202

(a) Granting the petition will materially assist the 203  
individual in obtaining employment or occupational licensing. 204

(b) The individual has a substantial need for the relief 205  
requested in order to live a law-abiding life. 206

(c) Granting the petition would not pose an unreasonable 207  
risk to the safety of the public or any individual. 208

(4) The submission of an incomplete petition by an 209  
individual shall not be grounds for the designee or court to 210  
deny the petition. 211

(5) Subject to division (C) (6) of this section, an 212  
individual is rebuttably presumed to be eligible for a 213  
certificate of qualification for employment if the court that 214  
receives the individual's petition under division (B) (2) of this 215  
section or that is forwarded a petition under division (B) (5) (a) 216  
of this section finds all of the following: 217

(a) The application was filed after the expiration of the 218  
applicable waiting period prescribed in division (B) (4) of this 219  
section; 220

(b) If the offense that resulted in the collateral 221  
sanction from which the individual seeks relief is a felony, at 222  
least three years have elapsed since the date of release of the 223  
individual from any period of incarceration in a state or local 224  
correctional facility that was imposed for that offense and all 225  
periods of supervision imposed after release from the period of 226  
incarceration or, if the individual was not incarcerated for 227  
that offense, at least three years have elapsed since the date 228



of the individual's final release from all other sanctions 229  
imposed for that offense; 230

(c) If the offense that resulted in the collateral 231  
sanction from which the individual seeks relief is a 232  
misdemeanor, at least one year has elapsed since the date of 233  
release of the individual from any period of incarceration in a 234  
local correctional facility that was imposed for that offense 235  
and all periods of supervision imposed after release from the 236  
period of incarceration or, if the individual was not 237  
incarcerated for that offense, at least one year has elapsed 238  
since the date of the final release of the individual from all 239  
sanctions imposed for that offense including any period of 240  
supervision. 241

(6) An application that meets all of the requirements for 242  
the presumption under division (C)(5) of this section shall be 243  
denied only if the court that receives the petition finds that 244  
the evidence reviewed under division (C)(1) of this section 245  
rebutts the presumption of eligibility for issuance by 246  
establishing, by clear and convincing evidence, that the 247  
applicant has not been rehabilitated. 248

(7) A certificate of qualification for employment shall 249  
not create relief from any of the following collateral 250  
sanctions: 251

(a) Requirements imposed by Chapter 2950. of the Revised 252  
Code and rules adopted under sections 2950.13 and 2950.132 of 253  
the Revised Code; 254

(b) A driver's license, commercial driver's license, or 255  
probationary license suspension, cancellation, or revocation 256  
pursuant to section 4510.037, 4510.07, 4511.19, or 4511.191 of 257

the Revised Code if the relief sought is available pursuant to 258  
section 4510.021 or division (B) of section 4510.13 of the 259  
Revised Code; 260

(c) Restrictions on employment as a prosecutor or law 261  
enforcement officer; 262

(d) The denial, ineligibility, or automatic suspension of 263  
a license that is imposed upon an individual applying for or 264  
holding a license as a health care professional under Title 265  
XLVII of the Revised Code if the individual is convicted of, 266  
pleads guilty to, is subject to a judicial finding of 267  
eligibility for intervention in lieu of conviction in this state 268  
under section 2951.041 of the Revised Code, or is subject to 269  
treatment or intervention in lieu of conviction for a violation 270  
of section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 271  
2907.03, 2907.05, 2909.02, 2911.01, 2911.11, 2919.123, or 272  
2919.124 of the Revised Code; 273

(e) The immediate suspension of a license, certificate, or 274  
evidence of registration that is imposed upon an individual 275  
holding a license as a health care professional under Title 276  
XLVII of the Revised Code pursuant to division (C) of section 277  
3719.121 of the Revised Code; 278

(f) The denial or ineligibility for employment in a pain 279  
clinic under division (B) (4) of section 4729.552 of the Revised 280  
Code; 281

(g) The mandatory suspension of a license that is imposed 282  
on an individual applying for or holding a license as a health 283  
care professional under Title XLVII of the Revised Code pursuant 284  
to section 3123.43 of the Revised Code. 285

(8) If a court that receives an individual's petition for 286

a certificate of qualification for employment under division (B) 287  
(2) of this section or that is forwarded a petition for such a 288  
certificate under division (B) (5) (a) of this section denies the 289  
petition, the court shall provide written notice to the 290  
individual of the court's denial. The court may place conditions 291  
on the individual regarding the individual's filing of any 292  
subsequent petition for a certificate of qualification for 293  
employment. The written notice must notify the individual of any 294  
conditions placed on the individual's filing of a subsequent 295  
petition for a certificate of qualification for employment. 296

If a court of common pleas that receives an individual's 297  
petition for a certificate of qualification for employment under 298  
division (B) (2) of this section or that is forwarded a petition 299  
for such a certificate under division (B) (5) (a) of this section 300  
denies the petition, the individual may appeal the decision to 301  
the court of appeals only if the individual alleges that the 302  
denial was an abuse of discretion on the part of the court of 303  
common pleas. 304

(D) (1) A certificate of qualification for employment 305  
issued to an individual lifts the automatic bar of a collateral 306  
sanction, and a decision-maker shall consider on a case-by-case 307  
basis whether to grant or deny the issuance or restoration of an 308  
occupational license or an employment opportunity, 309  
notwithstanding the individual's possession of the certificate, 310  
without, however, reconsidering or rejecting any finding made by 311  
a designee or court under division (C) (3) of this section. 312

(2) The certificate constitutes a rebuttable presumption 313  
that the person's criminal convictions are insufficient evidence 314  
that the person is unfit for the license, employment 315  
opportunity, or certification in question. Notwithstanding the 316

presumption established under this division, the agency may deny 317  
the license or certification for the person if it determines 318  
that the person is unfit for issuance of the license. 319

(3) If an employer that has hired a person who has been 320  
issued a certificate of qualification for employment applies to 321  
a licensing agency for a license or certification and the person 322  
has a conviction or guilty plea that otherwise would bar the 323  
person's employment with the employer or licensure for the 324  
employer because of a mandatory civil impact, the agency shall 325  
give the person individualized consideration, notwithstanding 326  
the mandatory civil impact, the mandatory civil impact shall be 327  
considered for all purposes to be a discretionary civil impact, 328  
and the certificate constitutes a rebuttable presumption that 329  
the person's criminal convictions are insufficient evidence that 330  
the person is unfit for the employment, or that the employer is 331  
unfit for the license or certification, in question. 332

(E) A certificate of qualification for employment does not 333  
grant the individual to whom the certificate was issued relief 334  
from the mandatory civil impacts identified in division (A) (1) 335  
of section 2961.01 or division (B) of section 2961.02 of the 336  
Revised Code. 337

(F) A petition for a certificate of qualification for 338  
employment filed by an individual under division (B) (1) or (2) 339  
of this section shall include all of the following: 340

(1) The individual's name, date of birth, and social 341  
security number; 342

(2) All aliases of the individual and all social security 343  
numbers associated with those aliases; 344

(3) The individual's residence address, including the 345

city, county, and state of residence and zip code; 346

(4) The length of time that the individual has resided in 347  
the individual's current state of residence, expressed in years 348  
and months of residence; 349

(5) A general statement as to why the individual has filed 350  
the petition and how the certificate of qualification for 351  
employment would assist the individual; 352

(6) A summary of the individual's criminal history, except 353  
for information contained in any record that has been sealed or 354  
expunged under section 2953.32 or 2953.39 of the Revised Code, 355  
with respect to each offense that is a disqualification from 356  
employment or licensing in an occupation or profession, 357  
including the years of each conviction or plea of guilty for 358  
each of those offenses; 359

(7) A summary of the individual's employment history, 360  
specifying the name of, and dates of employment with, each 361  
employer; 362

(8) Verifiable references and endorsements; 363

(9) The name of one or more immediate family members of 364  
the individual, or other persons with whom the individual has a 365  
close relationship, who support the individual's reentry plan; 366

(10) A summary of the reason the individual believes the 367  
certificate of qualification for employment should be granted; 368

(11) Any other information required by rule by the 369  
department of rehabilitation and correction. 370

(G) (1) In a judicial or administrative proceeding alleging 371  
negligence or other fault, a certificate of qualification for 372  
employment issued to an individual under this section may be 373

introduced as evidence of a person's due care in hiring, 374  
retaining, licensing, leasing to, admitting to a school or 375  
program, or otherwise transacting business or engaging in 376  
activity with the individual to whom the certificate of 377  
qualification for employment was issued if the person knew of 378  
the certificate at the time of the alleged negligence or other 379  
fault. 380

(2) In any proceeding on a claim against an employer for 381  
negligent hiring, a certificate of qualification for employment 382  
issued to an individual under this section shall provide 383  
immunity for the employer as to the claim if the employer knew 384  
of the certificate at the time of the alleged negligence. 385

(3) If an employer hires an individual who has been issued 386  
a certificate of qualification for employment under this 387  
section, if the individual, after being hired, subsequently 388  
demonstrates dangerousness or is convicted of or pleads guilty 389  
to a felony, and if the employer retains the individual as an 390  
employee after the demonstration of dangerousness or the 391  
conviction or guilty plea, the employer may be held liable in a 392  
civil action that is based on or relates to the retention of the 393  
individual as an employee only if it is proved by a 394  
preponderance of the evidence that the person having hiring and 395  
firing responsibility for the employer had actual knowledge that 396  
the employee was dangerous or had been convicted of or pleaded 397  
guilty to the felony and was willful in retaining the individual 398  
as an employee after the demonstration of dangerousness or the 399  
conviction or guilty plea of which the person has actual 400  
knowledge. 401

(H) A certificate of qualification for employment issued 402  
under this section shall be revoked if the individual to whom 403

the certificate of qualification for employment was issued is 404  
convicted of or pleads guilty to a felony offense committed 405  
subsequent to the issuance of the certificate of qualification 406  
for employment. The department of rehabilitation and correction 407  
shall periodically review the certificates listed in the 408  
database described in division (K) of this section to identify 409  
those that are subject to revocation under this division. Upon 410  
identifying a certificate of qualification for employment that 411  
is subject to revocation, the department shall note in the 412  
database that the certificate has been revoked, the reason for 413  
revocation, and the effective date of revocation, which shall be 414  
the date of the conviction or plea of guilty subsequent to the 415  
issuance of the certificate. 416

(I) A designee's forwarding, or failure to forward, a 417  
petition for a certificate of qualification for employment to a 418  
court or a court's issuance, or failure to issue, a petition for 419  
a certificate of qualification for employment to an individual 420  
under division (B) of this section does not give rise to a claim 421  
for damages against the department of rehabilitation and 422  
correction or court. 423

(J) The division of parole and community services shall 424  
adopt rules in accordance with Chapter 119. of the Revised Code 425  
for the implementation and administration of this section and 426  
shall prescribe the form for the petition to be used under 427  
division (B) (1) or (2) of this section. The form for the 428  
petition shall include places for all of the information 429  
specified in division (F) of this section. 430

(K) The department of rehabilitation and correction shall 431  
maintain a database that identifies granted certificates and 432  
revoked certificates and tracks the number of certificates 433

granted and revoked, the industries, occupations, and 434  
professions with respect to which the certificates have been 435  
most applicable, and the types of employers that have accepted 436  
the certificates. The department shall annually create a report 437  
that summarizes the information maintained in the database and 438  
shall make the report available to the public on its internet 439  
web site. 440

**Section 2.** That existing section 2953.25 of the Revised 441  
Code is hereby repealed. 442