

## HB 1399, to remove occupational license barriers for people who have finished prison sentences

By Todd Myers, Director, Center for the Environment

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### Key findings

1. **Occupational license restrictions on those with criminal records are a barrier to those looking to begin a new career.**
2. **Research demonstrates that finding work significantly reduces the chance of recidivism.**
3. **A 2015 report from the Obama Administration notes that existing restrictions have a disproportionate impact on minorities and immigrants.**
4. **HB 1399 would remove unnecessary barriers for those who have completed their sentence, allowing them to receive licenses for jobs unrelated to their previous offense.**
5. **Support for these reforms has bipartisan support, including the Democratic Chair and ranking Republican on the House Consumer Protection Committee.**

### Introduction

As Washington prepares to re-open its economy, legislators should remove barriers that make it difficult for many low-income workers to find jobs. Of particular note are restrictions for those with criminal records who have finished their sentences. Currently, Washington state puts licensing barriers on those who are trying to put their past behind them and begin a new career and chapter in

their life. House Bill 1399 has been introduced to address this problem.

House Bill 1399 would remove existing restrictions that prevent those with a criminal record from receiving an occupational license, if the job is unrelated to their previous offense.<sup>1</sup>

Additionally, the bill would allow those who have finished prison sentences to receive a determination about whether their criminal record would prevent them from receiving a particular license before they begin expensive training.

At a time when there is a great deal of political polarization and division, HB 1399 has bipartisan support and although it represents a small policy change, the bill follows the examples of several other states, including Illinois and Tennessee. The bill would offer additional hope to people who have paid their debt to society and who want to enter the workforce.

### An inequitable barrier to those with criminal records

Workers in Washington state face a significant number of licensing restrictions. Research by the Institute for Justice found that Washington and Louisiana require licenses for 77 of the 102 low- to moderate-income occupations—the most of any state.<sup>2</sup> These restrictions harm those who can least afford them.

For example, anyone wanting to apply for a state license as a cosmetologist, manicurist, geologist, or tattoo artist must attest that

1 “HB 1399, AN ACT Relating to reducing barriers to professional licensure for individuals with previous criminal convictions; adding a new chapter to Title 18 RCW; and providing an effective date,” Washington State Legislature, introduced January 27, 2021, at <http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/House%20Bills/1399.pdf?q=20210202144951>.

2 “License to Work: A National Study of Burdens from Occupational Licensing, 2nd Edition,” by Carpenter II, Dick, et al., Institute for Justice, November 2017, at [https://ij.org/wp-content/themes/ijorg/images/ltw2/License\\_to\\_Work\\_2nd\\_Edition.pdf](https://ij.org/wp-content/themes/ijorg/images/ltw2/License_to_Work_2nd_Edition.pdf).

they have not “defaulted, or been convicted of, or entered a plea of no contest to a gross misdemeanor or felony crime” in the last five years, whether the offense was related to the job or not.<sup>3</sup> Someone convicted of electronic data theft, for example, is prevented from becoming a licensed geologist even though the crime has no impact on the ability to do a professional job.

Research by the Obama Administration and scholars at Arizona State University (ASU) demonstrate why reform is so important.

In 2015, the Obama Administration released a study on the impact of occupational licenses on low-income workers, immigrants, and those with criminal records. The report notes, “Laws restricting licensing opportunities for workers with criminal records have a disproportionate impact on Black and Hispanic workers.”<sup>4</sup>

Those restrictions can be a significant obstacle for those looking for work. ASU researcher Stephen Slivinski found that occupational licenses make it difficult for ex-prisoners to find jobs when they are released and starting the process of being a contributing part of local communities.

He noted that, “Successful entry into the labor force has been shown to greatly increase the chances that a [former] prisoner will not recidivate. Yet government-imposed barriers to reintegration into the labor force—particularly occupational licensing requirements—can be among the most pernicious barriers faced by ex-prisoners seeking to enter the workforce.”<sup>5</sup>

He calls removing occupational license barriers the “missing piece of criminal justice reform.”

Washington’s existing rules do not automatically prohibit someone with a criminal record from receiving a license. The uncertainty, however, can make it difficult for someone to determine whether they qualify. Since many licenses require hundreds of hours of training and cost several thousand dollars, that uncertainty can hinder someone from training for a new career, even if they would be eligible to receive a license.

## Creating opportunity and removing uncertainty

The intent of HB 1399 is to “provide a reliable process for individuals with past criminal convictions to apply for a professional license, and to not be prevented from obtaining a professional license due to a prior criminal conviction which does not directly relate to the applicable profession, business, or trade.” It would make two important changes.

First, the bill would allow individuals with a criminal conviction to submit a preliminary application for a license to determine whether they are disqualified. The legislation would require the appropriate licensing authority to “make a determination of whether the individual’s criminal conviction would disqualify the individual from obtaining a professional license, government certification, or state recognition of the individual’s personal qualifications from that licensing authority.”<sup>6</sup>

Once someone has requested assurance that he would qualify, the appropriate agency must respond within six months. Unfortunately, that is longer than it takes to receive some licenses. An esthetician must complete 750 school hours, which is

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3 “Cosmetology, Hair Design, Barber, Manicurist, Esthetician, or Master Esthetician License, Renewal, Reinstatement, or Reciprocity Application,” Washington State Department of Licensing, accessed February 2, 2021, <https://www.dol.wa.gov/forms/638040.pdf>.

4 “Occupational licensing: A framework for policymakers,” The U.S. Department of the Treasury, Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, July 2015, p. 35, at [https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing\\_report\\_final\\_nonembargo.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf).

5 “Turning Shackles into Bootstraps: Why Occupational Licensing Reform Is the Missing Piece of Criminal Justice Reform,” Slivinski, Stephen, Center for the Study of Economic Liberty at Arizona State University, November 7, 2016, <https://cseel.asu.edu/sites/default/files/2019-09/csel-policy-report-2016-01-turning-shackles-into-bootstraps.pdf>.

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6 “HB 1399, AN ACT Relating to reducing barriers to professional licensure for individuals with previous criminal convictions; adding a new chapter to Title 18 RCW; and providing an effective date,” Washington State Legislature, introduced January 27, 2021, at <http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/House%20Bills/1399.pdf?q=20210202144951>.

about six months' worth of training.<sup>7</sup> Other licenses require even fewer hours. Adding an additional six months delay before someone can begin earning a living leaves an unnecessary barrier to begin a new career.

Second, the bill would allow state agencies to disqualify applicants only if “it determines the individual’s conviction is related to the occupation or profession unless the individual has requested and received a certificate of restoration of opportunity...”<sup>8</sup>

For example, someone with a conviction for auto theft would not be prohibited from becoming a nurse. Protections for other professions would remain, potentially preventing someone convicted of burglary from receiving a real estate license. The bill strikes a good balance between protecting the public without creating undue burdens on those looking for a job.

### Broad support for reforms

The legislation has received support from a wide range of organizations and states. The bill is co-sponsored by the Democratic chair of the House Consumer Protection and Business Committee and the ranking Republican on the committee. Similar reforms have been adopted recently in states as politically varied as Illinois<sup>9</sup> and Tennessee.<sup>10</sup>

Additionally, Washington Policy Center signed a joint letter with Columbia Legal Services supporting the reforms, noting, “Removing licensing restrictions for jobs

unrelated to their conviction would reduce recidivism and provide an opportunity to become self-sufficient.”<sup>11</sup> The legislation is also on the Washington Black Lives Matter Alliance legislative agenda.<sup>12</sup>

In 2020, a similar bill passed unanimously out of committee and to the floor of the state House. It was killed in the Senate, however, and never received a hearing in committee.

### Conclusion - Criminal justice reform that is long overdue

With so much focus on criminal justice reform, it would be ironic if legislators fail to remove barriers that limit opportunities for those who have completed prison sentences. The research is clear and consistent that occupational license restrictions are harmful and have a discriminatory impact.

HB 1399 would help reduce those barriers. Although the bill should be modified to ensure that licensing agencies provide clear guidance in the fastest-possible time, it is an important improvement that will begin to immediately undo the discriminatory history of occupational license regulations. The legislature should adopt this important reform that would offer a fresh start for many people.

7 “How to get a cosmetologist, barber, manicurist, esthetician, hair design, or master esthetician license,” Washington State Department of Licensing, accessed February 2, 2021, at [https://www.dol.wa.gov/business/cosmetology/get\\_cosmetologist.html](https://www.dol.wa.gov/business/cosmetology/get_cosmetologist.html)

8 “HB 1399, AN ACT Relating to reducing barriers to professional licensure for individuals with previous criminal convictions; adding a new chapter to Title 18 RCW; and providing an effective date,” Washington State Legislature, introduced January 27, 2021, at <http://lawfilesexxt.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Bills/1399.pdf?q=20210202144951>.

9 “Public Act 100-0286, An Act concerning State government,” State of Illinois, January 1, 2018, at <http://www.ilga.gov/legislation/publicacts/100/PDF/100-0286.pdf>.

10 “Senate Bill 2465, AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 76, Part 1 and Title 63, Chapter 1, relative to effect of criminal convictions on occupations and professional licensure,” introduced January 31, 2018, State of Tennessee, at <http://www.capitol.tn.gov/Bills/110/Bill/SB2465.pdf>.

11 “Joint letter from Washington Policy Center and Columbia Legal Services,” Washington Policy Center and Columbia Legal Services, January 27, 2021, at <https://www.washingtonpolicy.org/library/doctlib/Joint-licensing-letter-WPC-and-Columbia-Legal-Services.pdf>

12 “This is part of the Washington BLM Alliance legislative agenda, which is working on over 150 bills,” BlackLivesSeattleKC [@BLMSeattleKC], January 30, 2021, Retrieved from <https://twitter.com/BLMSeattleKC/status/1355651502359019523>

Todd Myers is the director of Washington Policy Center’s Center for the Environment.

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