



# Arkansas Department of Health

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Arkansas State Board of Nursing  
1123 S. University Ave., #800 • Little Rock, Arkansas 72204 • (501) 686-2700 • Fax (501) 686-2714  
Governor Asa Hutchinson  
José R. Romero, MD, Secretary of Health  
Sue A. Tedford, MNSc, APRN, Director

Dear Licensure Applicant,

Thank you for submitting your Arkansas State Board of Nursing (ASBN) Application for Licensure. The information contained in this material is for you to use if you have ever been convicted of a misdemeanor or felony, pled guilty or nolo contendere to any charge in any state or jurisdiction. This material is designed to provide you with information and identify documentation that you must submit to ASBN as part of your application process.

The ASBN requires all applicants for nursing licensure to answer specific eligibility questions as identified on the application. In addition, all applicants must submit their fingerprints for a state and federal criminal background check.

In the event that you have responded "yes" to respective screening question(s) and/ or have a positive result on either of the criminal background check(s), you are required to submit documentation to the ASBN. If you answer "yes" to respective eligibility question(s) and/ or have a positive result on either of the criminal background check(s) and do not provide the required documents, your application will not be considered by the ASBN until you provide the required documents.

You are required to report all misdemeanor and felony convictions that occurred in Arkansas or any other state or jurisdiction, regardless of when they occurred, even if adjudication is withheld. DWI/DUIs and similar offenses must be reported. An offense(s) must be reported even if a suspended imposition of sentence occurred, or is a juvenile, sealed or expunged offense.

Applications are reviewed and investigative cases are opened in the order that they are received. Please read the information carefully and provide all required documentation. Additional documentation may be required on a case-by-case basis. Failure to submit a complete application, correct application fee(s), and required documents will delay review of your licensure application. An investigative case will not be complete for final review and action until you have provided all required documentation.

The ASBN is unable to provide a specific timeframe regarding processing of your application. Review is on a case-by-case basis and may take longer depending on the nature of your offense(s), the rate at which you submit required documentation and the volume of applications received by ASBN.

A formal Board hearing may be required depending on the nature of your offense(s); identified in the ASBN *Nurse Practice Act* in Arkansas Code, Act 1208 of 1999 Legislative Session- ACA 17-87-312. Specific offenses are ACA 17-3-102.

Sincerely,

Arkansas State Board of Nursing Staff



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## CRIMINAL BACKGROUND CHECK INFORMATION

### GENERAL INFORMATION

A complete application and correct amount of required fee(s) must be submitted to the ASBN office before your application will be processed and an investigative case will be opened. Instructions for completing the Examination or Endorsement Application are located on the website and within application.

You should be forthcoming and honest when answering the ASBN Examination or Endorsement Application eligibility questions. The criminal background check conducted by ASBN is very thorough and offenses may appear on the report that may not have appeared in previous reports that you have had conducted.

You are encouraged to review the ASBN *Nurse Practice Act* and *Rules* located at [www.arsbn.org](http://www.arsbn.org). According to the ASBN *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312), no person who shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty, nolo contendere, or been found guilty of any of the offenses (as identified in Arkansas Code Annotated 17-3-102).

ACA § 17-87-312 provides the applicant an opportunity to request a waiver of eligibility criteria related to a criminal background in certain circumstances depending on the offense(s). However, certain offense(s) are considered a permanent bar to licensure in Arkansas and an individual with one or more of these offense(s) are not eligible to apply for a waiver. You should review the ASBN *Nurse Practice Act* (Sub Chapter section 3- 17-87-312.)

For examination applicants, a temporary permit will not be issued and permission to take (Authorization to Test) the National Council Licensure Examination® (NCLEX®) will not be extended until completion of the investigation and eligibility has been determined.

For additional information you may refer to the [Criminal Background Frequently Asked Questions](#) located on our website at [www.arsbn.org](http://www.arsbn.org). Click on the [Criminal Background Check](#) box.

### DOCUMENTATION

You are required to submit documentation to the ASBN if you respond “yes” to respective eligibility question(s), if notified that you have a positive criminal background check report(s) or as directed by the ASBN.

The required documentation shall be uploaded through your nurse portal account.

Court documents and behavioral evaluation reports, if required by ABSN, must be submitted directly to the ASBN, Attention Education Department, from the respective court or agency.

#### 1. Personal Documentation

You must upload a personal letter of explanation to the ASBN. The self-explanatory letter should identify the timeline of offense(s) and describe each offense in your own words. You should discuss specific information in the letter including but not limited to the circumstances related to the offense(s), behavior(s) that led to offense(s), and your conduct since. If applicable, you should discuss any rehabilitative efforts since the offense(s). The letter needs to be legible and may be handwritten or typed. Please sign and date the letter and submit it as identified herein.

#### 2. Court Documentation

You will need to contact the court in the county where each of your offense(s) occurred and request them to submit a certified copy of each of your offenses.

You will need to request a certified copy of documentation for all offenses that reflects: —**Charge(s)/conviction(s)**; — **Disposition of charge(s)** (order, judgment, fine(s), community service, probation, sentence, or deferred orders); and — **Evidence that the conditions of the court/restitution has been met** (i.e. all fines paid in full, parole/probation terms complete etc.)



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## CRIMINAL BACKGROUND CHECK INFORMATION

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#### Important notes:

- In the event that any of your offenses are identified as a bar for licensure, the statute number of the offense must be included on the respective court document or submitted to ASBN from the court. You may need to specifically request that the statute number is reflected on your court documentation.
- The name(s) on your documents should match the name(s) on your application. If the name(s) on your court document(s) are different from the name(s) that you have listed on the ASBN Application, you will be required to provide documentation that validates the name(s) on the court document(s). Such documentation used to validate your name(s) would include a copy of a marriage license, divorce decree or other court ordered documentation officially reflecting your name change.
- If a case number(s) on your court documentation does not reflect the actual name of the respective offense(s), you will be required to obtain documentation that will reflect the association of the case number to the offense.
- In the event that your offense(s) have been officially sealed or expunged you must have the court submit the order to seal documentation or order of expungement documentation to ASBN for review. You must mark "yes" on the ASBN application screening question regarding a prior conviction.
- In the event that your offense(s) occurred as a juvenile, you should contact the juvenile division of the court in the county where the offense(s) occurred to obtain a letter regarding the status of your offense(s).
- If court records have been purged or destroyed, you will need to request that the court submit a letter to the ASBN that reflects that a records search was conducted for identified timeframe and the outcome.
- All criminal convictions, deferred orders, dismissed orders, suspended imposition of sentence orders, and/ or adjudication orders must be reported to the board; including those from another state or jurisdiction.

### 3. Rehabilitative Documentation

You must upload documentation to the ASBN if you have responded "yes" to either of the application screening questions regarding current drug related behavior or participation in a chemical or alcohol dependency treatment/rehabilitation program.

Documentation that needs to be uploaded should include information such as:

- Verification of treatment for substance abuse
- Admission summary
- Recommendations
- Evidence of continuing sobriety, support group, etc.
- Rehabilitative program completion
- Discharge summary
- Verification of compliance with aftercare recommendations

#### Important notes:

The ASBN may require that you have an addictive behavioral evaluation completed based on the nature of your response(s) and /or the nature of your offense(s). If the ASBN requires an addictive behavioral evaluation, you will be notified of the requirement. You will be provided with a list of evaluators that provide these services. Be aware that the evaluation must be completed by a person who specializes in addiction, and credentialed appropriately as approved by the Board. The evaluation must consist of an in-depth psychological/addiction evaluation sent directly to the Board. The evaluation must note that the evaluator has read the letter that the ASBN will send to you. The Board will not accept evaluations that are done by social workers.

### 4. Board Documentation

You must provide documentation to the ASBN if you have responded "yes" to the application eligibility question regarding discipline or voluntarily surrender of your license, certificate or privilege to practice in any state or jurisdiction or if it is determined that you have had discipline in another state or jurisdiction. This includes any license or certificate (CNA, Pharmacy, massage, etc.).

You need to upload documentation to your nurse portal account.

Documentation that needs to be submitted should include:

- Copy of Facts and Finding from the respective Board of Nursing
- Evidence of completion of respective Board of Nursing's stipulations; and
- Evidence of reinstatement of license.



## CRIMINAL BACKGROUND FREQUENTLY ASKED QUESTIONS

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**Q: Why does the Arkansas State Board of Nursing (ASBN) ask questions regarding criminal conviction(s)?**

A: According to the ASBN *Nurse Practice Act* (Sub Chapter Section 3-17-87-312, no person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty, nolo contendere, or been found guilty of any of the offenses (as identified in Arkansas Code, ACA § 17-3-102).

The law applies to licensed nurses as well as those individuals' seeking licensure. This includes new graduates, nurses applying for licensure from other countries or states and nurses applying for advanced practice. Additional information is available by accessing the *Nurse Practice Act* (Sub Chapter Section 3-17-87-312) at [http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER\\_3.pdf](http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf)

**Q: What does this mean if I want to become a nurse?**

A: An individual that has pleaded guilty, nolo contendere, or been found guilty of any of offenses (as identified in Arkansas Code, Act 1208 of 1999 Legislative Session- ACA § 17-87-312 and ACA § 17-3-102) may not be eligible to take the National Council Licensure Examination- Practical Nurse (NCLEX-PN®), National Council Licensure Examination-Registered Nurse (NCLEX-RN®). An individual interested in becoming a nurse in Arkansas should review the *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312 and ACA § 17-3-102) at [http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER\\_3.pdf](http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf)

**Q: What criminal offenses do I have to report to the Arkansas State Board of Nursing?**

A: You are required to report all misdemeanor and felony convictions that occurred in Arkansas or any other state or jurisdiction, regardless of when they occurred, even if adjudication is withheld. DWIs and similar offenses must be reported. (Traffic violations do not constitute a crime). An offense(s) must be reported even if a suspended imposition of sentence occurred, or is a juvenile, sealed or expunged offense.

**Q: Can I be admitted to a nursing program if I have a conviction?**

A: ASBN does not determine the admission requirements for nursing programs. Please refer to the admission requirements of the program that you are interested in attending. Be aware that despite completion of a nursing program, an individual that has pleaded guilty, nolo contendere, or been found guilty of any of offenses (as identified in Arkansas Code, Act 1208 of 1999 Legislative Session- ACA § 17-87-312 and ACA § 17-3-102) may not be eligible to take the National Council Licensure Examination-Practical Nurse (NCLEX-PN®), National Council Licensure Examination –Registered Nurse (NCLEX-RN®).

An individual interested in becoming a nurse in Arkansas should review the *Nurse Practice Act* (Sub Chapter Section 3-17-87-312 and ACA § 17-3-102) at [http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER\\_3.pdf](http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf)

**Q: I want to attend nursing school; can I find out before I enroll if I will be able to take the licensure examination?**

No. ASBN statutory authority in ACA § 17-3-102 is for licensees or "applicants" for licensure. Potential students should review the specific statute number of your offense(s) as compared to the offenses listed ACA § 17-3-102. Despite completion of a nursing program, there is no guarantee that a waiver will be granted to an individual with any of offense(s) listed in the above statute.

## CRIMINAL BACKGROUND FREQUENTLY ASKED QUESTIONS

- Q: What if I have plead guilty, nolo contendere, or been found guilty of a crime that is listed in the ASBN Nurse Practice Act?**
- A. If your offense is listed, you may not be eligible to take the National Council Licensure Examination-Practical Nurse (NCLEX-PN®), National Council Licensure Examination-Registered Nurse (NCLEX-RN®) or hold licensure in Arkansas. ACA § 17-3-102 provides the applicant an opportunity to request a waiver of eligibility criteria related to a criminal background in certain circumstances depending on the offense(s).
- Q: I have offenses in my past that have been sealed or expunged. Do I have to report these to the ASBN or provide documentation?**
- A. Yes. Even if a record is sealed or expunged, the offenses must be disclosed to ASBN. When an individual has an offense that is sealed or expunged, a judge will issue an order to expunge or order to seal the record. If you believe that an offense has been expunged or sealed, you should confirm this with your lawyer or the court. You should have the court submit the order to seal or expungement documentation to ASBN for review. You shall mark “yes” on the examination application screening question regarding a prior conviction and provide court documentation regarding the order, judgment and restitution of the offense(s).
- Q: I have an offense(s) in my past that has been dismissed, dropped or nolle prossed. Do I have to provide documentation?**
- A. Even if your offense(s) have been dismissed, dropped or nolle prossed, without any court ordered stipulations, it may show up on the criminal background check report and in that event you will be required to provide documentation reflecting the action. You will be required to provide documentation even if adjudication is withheld or if a suspended imposition of sentence occurred.
- Q: I have offenses in my past that occurred so long ago that I cannot obtain documentation, or it is difficult to obtain the documentation, what do I need to do?**
- A. Documentation must be submitted to ASBN, and an attempt must be made to provide required documentation. Obtaining the required documents may be challenging. However, it is your responsibility to request and provide the documentation required for review of your case. If the court states that documentation is unavailable (has been destroyed, purged, etc.), request that the court submit a statement to ASBN indicating the respective search dates and the reason documentation is unavailable.
- Q: I have offenses that occurred in another state, do I need to report these?**
- A. Yes. All offenses, regardless of the state or jurisdiction must be reported and respective documentation provided to ASBN.
- Q: I have applied for licensure and have an ongoing charge / offense / case / probation. Will this affect my application?**
- A. Yes. You must complete all court ordered obligations before your case will be reviewed.
- Q: I have had a criminal background check report conducted before; can this be used instead of doing a new one for ASBN?**
- A. No. A criminal background check conducted for another agency is not acceptable. Each first-time applicant for a license issued by ASBN shall apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation. Upon completion of the criminal background check, the Identification Bureau of the department of Arkansas State Police will forward your results to the ASBN.

## CRIMINAL BACKGROUND FREQUENTLY ASKED QUESTIONS

**Q: I have had a criminal background check conducted before and it never showed anything. Why does the one that ASBN conducted show something?**

A. The criminal background check that is conducted by ASBN is very thorough. You should be forthcoming and honest when answering the ASBN application screening questions. Offenses may appear on the report that may not have appeared in previous reports that you have had conducted.

**Q: How do I know whether I have been convicted of a crime?**

A. You have been convicted of a crime if you have pled guilty to, entered a nolo contendere plea, or were found guilty of a criminal offense in any court. Additional variables may have determined your offense outcome; you may contact the court in the county where the offense occurred to determine whether the offense resulted in a conviction and was a misdemeanor or felony offense.

**Q: I want to be a nurse, but I have prior convictions, none are felonies. Can I become a nurse?**

A. An individual interested in becoming a nurse in Arkansas should review the ASBN *Nurse Practice Act* (Sub Chapter Section 3- 17-87-312 and ACA § 17-3-102) at [http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER\\_3.pdf](http://www.arsbn.arkansas.gov/lawsRules/Documents/SUBCHAPTER_3.pdf). Review is on a case-by-case basis and each case is individually reviewed and offense(s) that are misdemeanor(s) listed in the identified Sub Chapter can result in denial.

**Q: I am an LPN, and I am completing RN school, do I need to resubmit documents that I have already submitted to ASBN?**

A. Typically, previously submitted documents remain on file and do not have to be resubmitted if no additional offenses have occurred. You should submit a letter to the ASBN explaining that documentation has been previously submitted. Your application will go through the review process again. If additional documentation is required, you will be contacted. The criminal background checks are valid for one year; you will be required to resubmit the criminal background checks if it has been greater than one year.

**Q: I failed the NCLEX. Do I need to resubmit documents with my Rewrite Examination Application?**

A. Typically, previously submitted documents remain on file and do not have to be resubmitted if no additional offenses have occurred. The licensure applicant should submit a letter to the ASBN explaining that documentation has been previously submitted. Your application will go through the review process again. If additional documentation is required, you will be contacted. The criminal background checks are valid for one year; you will be required to resubmit the criminal background checks if it has been greater than one year.

**Q: Do I need to report traffic violations?**

A. No. Traffic violations (speeding, no insurance, etc.), are not required to be reported to the ASBN. DWI's and similar offenses are required to be reported. If you failed to pay (FTA) or failed to appear (FTA) for traffic related offense(s) and pled guilty, nolo contendere or were convicted of this offense(s), these shall be reported, and you will be required to provide documentation that reflects resolution of the offense(s).

## CRIMINAL BACKGROUND FREQUENTLY ASKED QUESTIONS

- Q: Do I need to submit a letter of explanation if I have a criminal record in my background?**
- A. Yes. You must submit a personal, letter of explanation to the ASBN. The self-explanatory letter should identify the timeline of offense(s) and describe each offense in your own words. You should discuss specific information in the letter including but not limited to the circumstances related to the offense(s), behavior(s) that led to offense(s), and your conduct since. If applicable, you should discuss any rehabilitative efforts since the offense(s). The letter needs to be legible and may be handwritten or typed. Please sign and date the letter and submit it as identified herein.
- Q: Should I mark yes to “Have you ever been convicted of a misdemeanor or felony, pled guilty or nolo contendere to any charge in any state or jurisdiction?” if I was arrested, but charges were dropped or nolle prossed without any stipulations?**
- A. You are not required to report charges or offenses that did not result in a conviction. However, if an arrest(s), charge(s) or offense(s) appears on the criminal background check(s), you will be required to provide official court documentation that reflects that the charges have been dropped or nolle prossed.
- Q: I had a conviction when I was a juvenile - but my attorney told me it was expunged from my record. Do I have to report it? If I must report it - what documents do I have to submit?**
- A. Yes. If your offense(s) occurred as a juvenile, you should contact the juvenile division of the court in the county where the offense(s) occurred to obtain a letter regarding the status of your offense(s). Even if a record is sealed or expunged, the offenses must be disclosed to ASBN. When an individual has an offense that is sealed or expunged, a judge will issue an order to expunge or seal the record. If you believe that an offense has been expunged or sealed, you should confirm this with your lawyer or the court.
- Q: I am a new graduate and I want to go to work as soon as possible, can I have a temporary permit while my case is under review?**
- A. No. A temporary permit will not be issued until completion of the investigation and your eligibility has been determined.
- Q: I am a new graduate; can I take the NCLEX® while my case is being reviewed?**
- A. No. Permission to take (Authorization to Test) the National Council Licensure Examination (NCLEX®) will not be extended until completion of the investigation and your eligibility has been determined.
- Q: I am currently enrolled in a nursing program. I was recently arrested, and my charges will be dropped after I complete probation. Should I submit court documents now or wait until after I complete probation?**
- A. You should have closure with the court prior to your case being reviewed. Whether you apply now or after the charges are dismissed, you must still report the issue and it will be part of the investigative review. However, you will not receive a temporary permit or be approved to take the exam until after you are off probation and have met all court stipulations. You should refer to the ACA code of the charge, to see if it falls within the list of bars to licensure (ACA § 17-3-102). Following completion of probation, you will need to have the court or probation officer submit a regarding completion of your court ordered probation.

## CRIMINAL BACKGROUND FREQUENTLY ASKED QUESTIONS

**Q: How long will it take to review my file?**

A. Unfortunately, we are unable to provide a specific time frame to an applicant regardless of the type of case. The nature of an offense and associated variables impact the time required to review a case. Review is on a case-by-case basis and may take longer depending on the nature of your offense(s), the rate at which you submit required documentation and the volume of applications received by ASBN.

**Q: I am still in nursing school; can I submit my paperwork to ASBN before I graduate so it is reviewed faster?**

A. ASBN cannot expedite the review process; each application is reviewed on a case-by-case basis and processed in the order they are received. Your case cannot be reviewed until the ASBN application for licensure is received.

**Q: My criminal background check came back with an offense that I forgot to include on my application, what do I need to do?**

A. You must provide information concerning the offense before the review process can be completed.

**Q: What type of documentation do I need to submit if I have a prior offense(s)?**

A. You are required to submit specific documentation regarding each offense(s). Refer to the Criminal Background Check Information located on our website at [www.arsbn.org](http://www.arsbn.org) for a detailed list of required documentation.

**Q: I have received a denial letter from the ASBN that states I may request a waiver, what do I need to do now?**

A. If you have received a denial letter from the ASBN based on offense(s) that are identified as a bar to licensure, it will identify the offense(s) that are considered a bar for licensure in Arkansas. Information in the letter will identify what additional documentation you will be required to submit. The waiver request must be received by the Board within thirty (30) days from the date of the letter; specific instructions for submission are contained within the letter.

**Q: I have submitted a waiver request as identified in the denial letter that was sent to me from the ASBN. How many references / recommendations do I need to submit?**

A. There are no specific requirements on the number of references / recommendations that you need to have submitted to the ASBN. You will want to obtain a number that will provide a wide range of information related to your behavior/ character etc. Please have the individual sign the reference/ recommendation and include their full contact information.

**Q: I have received a denial letter from the ASBN that states my application has been denied but I do not have any offenses that are identified as a bar to licensure, why would this occur?**

A. An ASBN application for licensure may be denied for reasons other than a bar to licensure. The specific reason for a denial will be delineated in a letter you will receive from the ASBN.

**17-3-102. Licensing restrictions based on criminal records.**

(a) An individual is not eligible to receive or hold a license issued by a licensing entity if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq., or otherwise previously sealed, pardoned or expunged under prior law:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Negligent homicide as prohibited in § 5-10-105;
- (5) Kidnapping as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree as prohibited in § 5-11-103;
- (7) Permanent detention or restraint as prohibited in § 5-11-106;
- (8) Robbery as prohibited in § 5-12-102;
- (9) Aggravated robbery as prohibited in § 5-12-103;
- (10) Battery in the first degree as prohibited in § 5-13-201;
- (11) Aggravated assault as prohibited in § 5-13-204;
- (12) Introduction of a controlled substance into the body of another person as prohibited in § 5-13-210;
- (13) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;
- (14) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (15) Rape as prohibited in § 5-14-103;
- (16) Sexual indecency with a child as prohibited in § 5-14-110;
- (17) Sexual extortion as prohibited in § 5-14-113;

- (18) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;
- (19) Incest as prohibited in § 5-26-202;
- (20) Offenses against the family as prohibited in §§ 5-26-303 — 5-26-306;
- (21) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;
- (22) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (23) Permitting the abuse of a minor as prohibited in § 5-27- 221;
- (24) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
- (25) Computer child pornography as prohibited in § 5-27-603;
- (26) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
- (27) Felony adult abuse as prohibited in § 5-28-103;
- (28) Theft of property as prohibited in § 5-36-103;
- (29) Theft by receiving as prohibited in § 5-36-106;
- (30) Arson as prohibited in § 5-38-301;
- (31) Burglary as prohibited in § 5-39-201;
- (32) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, as prohibited in the former § 5-64-401, and §§ 5-64- 419 — 5-64-442;
- (33) Promotion of prostitution in the first degree as prohibited in § 5-70-104;
- (34) Stalking as prohibited in § 5-71-229;
- (35) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection; and
- (36) All other crimes referenced in this title.

(b)

(1) If an individual has been convicted of a crime listed in subsection (a) of this section, a licensing entity may waive disqualification or revocation of a license based on the conviction if a request for a waiver is made by:

(A) An affected applicant for a license; or

(B) The individual holding a license subject to revocation.

(2) A basis upon which a waiver may be granted includes without limitation:

(A) The age at which the offense was committed;

(B) The circumstances surrounding the offense;

(C) The length of time since the offense was committed;

(D) Subsequent work history since the offense was committed;

(E) Employment references since the offense was committed;

(F) Character references since the offense was committed;

(G) Relevance of the offense to the occupational license; and

(H) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) If an individual has a valid criminal conviction for an offense that could disqualify the individual from receiving a license, the disqualification shall not be considered for more than five (5) years from the date of conviction or incarceration or on which probation ends, whichever date is the latest, if the individual:

(A) Was not convicted for committing a violent or sexual offense; and

(B) Has not been convicted of any other offense during the five-year disqualification period.

(d) A licensing entity shall not, as a basis upon which a license may be granted or denied:

(1) Use vague or generic terms, including without limitation the phrase "moral turpitude" and "good character"; or

(2) Consider arrests without a subsequent conviction.

(e) Due to the serious nature of the offenses, the following shall result in permanent disqualification for licensure:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Kidnapping as prohibited in § 5-11-102;
- (4) Aggravated assault upon a law enforcement officer or an employee of a correctional facility as prohibited in § 5-13-211, if a Class Y felony;
- (5) Rape as prohibited in § 5-14-103;
- (6) Sexual extortion as prohibited in § 5-14-113;
- (7) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (8) Incest as prohibited in § 5-26-202;
- (9) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (10) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (11) Adult abuse that constitutes a felony as prohibited in § 5-28-103; and
- (12) Arson as prohibited in § 5-38-301.

(f) This chapter does not preclude a licensing entity from taking emergency action against a licensee as authorized under § 25-15-211 for the sake of public health, safety, or welfare.

(g) The permanent disqualification for an offense listed in subsection (e) of this section does not apply to an individual who holds a valid license on the effective date of this chapter.