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House Bill 4488 (Substitute H-4 as passed by the House)
House Bills 4489 through 4493 (as passed by the House)
Sponsor: Representative Brandt Iden (H.B. 4488)
Representative Joseph N. Bellino, Jr. (H.B. 4489)
Representative Michele Hoytenga (H.B. 4490)
Representative Beth Griffin (H.B. 4491)
Representative Sherry Gay-Dagnogo, M.Ed. (H.B. 4492)
Representative Rebekah Warren (H.B. 4493)
House Committee: Regulatory Reform
Ways and Means
Senate Committee: Regulatory Reform

Date Completed: 9-22-20

CONTENT

House Bill 4488 (H-4) would amend Public Act (PA) 381 of 1974, which governs occupational licensing for former offenders, to do the following:

- **Modify provisions allowing a licensing board or agency from considering a judgment in a civil action entered against an individual or an individual's criminal conviction as evidence in determining his or her lack of good moral character.**
- **Modify a provision requiring a licensing board or agency to consider an individual's certificate of employability, if any, as evidence in the determination of an individual's good moral character.**

House Bill 4489 would amend the Revised Judicature Act to specify that PA 381 would not apply in determining an applicant's good moral character for admission to the State Bar of Michigan.

House Bills 4490, 4491, and 4492 would amend the Skilled Trades Regulation Act, the Public Health Code, and the Occupational Code, respectively, to modify those Act's definitions of "good moral character" to reflect the changes proposed by House Bill 4488 (H-4).

House Bill 4493 would amend the Occupational Code to require the Director of the Department of Licensing and Regulatory Affairs (LARA) to include in an annual report to the Legislature the number of license applications denied by LARA because of an applicant's lack of good moral character.

House Bills 4489 through 4492 are tie-barred to House Bill 4488. Each bill would take effect 90 days after its enactment.

House Bill 4488 (H-4)

Public Act 381 specifies that a judgment of guilt in a criminal prosecution or a judgment in a civil action may not be used, in and of itself, by a licensing board or agency as proof of an individual's lack of good moral character. However, the licensing board or agency may use

that judgment as evidence in determination of his or her good moral character. The bill would delete this provision. Instead, under the bill, a licensing board or agency could consider only judgments in civil action entered against an individual as evidence of his or her lack of good moral character if more than one civil judgment in a civil action had been entered against him or her.

A licensing board or agency could not consider an individual's criminal conviction, in and of itself, as conclusive proof of his or her lack of good moral character. Except as otherwise provided, a licensing board or agency could consider an individual's criminal conviction as evidence in the determination of his or her good moral character only if it found that the individual's criminal record included a conviction for a felony and any of the following applied to that felony:

- The licensing board or agency concluded that the specific offense for which the individual was convicted had a direct and specific relationship to the activities authorized by the occupational or professional license.
- The specific offense for which the individual was convicted involved a demonstrable risk to the public safety.
- The individual, based on the nature of the offense for which he or she was convicted and on any additional information provided by the licensee, was more likely to commit a subsequent offense because he or she had the occupational or professional license than if he or she did not have the license.
- A subsequent offense committed with the aid of the occupational or professional license would cause greater harm to the public than it would if the individual did not have the license.

"Felony" would mean a violation of a penal law of the State for which the offender may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony.

A licensing board or agency could not consider an individual's criminal conviction, in and of itself, as conclusive proof of his or her lack good moral character, but could use an individual's criminal conviction as evidence in the determination of his or her good moral character without meeting the requirement described above if the licensing board or agency was one of the following:

- A principal department, or a board or agency within a principal department, to the extent that department, board, or agency was responsible for the licensing and regulation of childcare organizations, home for the aged or nursing homes, or adult foster care facilities.
- The Michigan Commission on Law Enforcement Standards.
- The Board of Law Examiners.

The Act also specifies if a judgment of guilt in a criminal prosecution is used as evidence in the determination of an individual's good moral character, a licensing board or agency also must consider the individual's certificate of employability, if any, under Section 34d of the Corrections Code, as evidence of the determination. Instead, under the bill, a licensing board or agency also would have to consider the individual's certificate of employability, if any, and any additional information about his or her current circumstances, such as how long ago the offense occurred, whether he or she completed the sentence for the offense, other evidence of rehabilitation, testimonials, employment history, and employment aspirations as evidence in the determination of an individual's good moral character.

(Section 34d of the Corrections Code requires the Department of Corrections to issue a certificate of employability to a prisoner upon his or her release if certain conditions apply.)

If a judgment in a civil action or a criminal conviction is used as evidence of an individual's good moral character, the licensing board or agency must notify the individual and he or she is permitted to rebut the evidence by showing that at the current time he or she has the ability to, and is likely to, serve the public in a fair, honest, and open manner, that he or she is rehabilitation, or that the substance of the former offense is not reasonably related to the occupation or profession for which he or she is seeking a license. The bill would delete reference to "the substance of the former offense is not reasonably related to the occupation or profession for which he or she is seeking a license" and, instead, refer to the criteria under the bill had not been met.

House Bill 4489

The Revised Judicature Act specifies that an individual is qualified for admission to the State Bar of Michigan if he or she proves to the satisfaction of the Board of Law Examiners that he or she is an individual of good moral character, is 18 years of age or older, has the required general education, learning in the law, and fitness and ability to enable him or her to practice law in the courts of record of the State, and that he or she intends in good faith to practice or teach law in Michigan.

"Good moral character" means good moral character as defined and determined under PA 381 of 1974. The bill would delete this provision. Instead, under the bill, good moral character would be determined by the Board of Law Examiners, and PA 381 would not apply to that determination.

House Bill 4490

The Skilled Trades Regulation Act defines "good moral character" as good moral character as defined in Section 1 of PA 381. Instead, under the bill, the term would mean good moral character as defined in, and determined under, PA 381.

House Bill 4491

The Public Health Code allows the Department of Licensing and Regulatory Affairs to refuse to issue a license to establish or maintain and operate, or both, a nursing home to an applicant, if either of the following are met:

- An occupational, professional, or health agency license held by the applicant was revoked during the five years before the date of application.
- The Department finds that the applicant is not suitable to operate a nursing home because of financial incapacity or a lack of good moral character or appropriate business or professional experience.

"Good moral character" means that term as defined in PA 381. Instead, under the bill, the term would mean good moral character as defined in, and determined under, PA 381.

House Bill 4492

The Occupational Code defines "good moral character" as good moral character as defined in Section 1 of PA 381. Instead, under the bill, the term would mean good moral character as defined in, and determined under, PA 381.

House Bill 4493

The Occupational Code requires the Director of LARA to submit a report by December 1 of

each year to the standing committees and appropriations subcommittees of the Michigan Senate and House of Representatives concerned with occupational issues. The Director of LARA must include the following information concerning the preceding State fiscal year:

- The number of initial and renewal applications received and completed within the 90-day time period prescribed in the Code and the 30-day time period prescribed in the Code.
- The number applicants denied by LARA.
- The number of applications that were not issued a license or registration within the applicable time period and the amount of money returned to licensees and registrants.

The bill also would require the Director to include in the report the number of applications denied by LARA because of an applicant's lack of good moral character and a summary, by category of offense, of the criminal convictions on which those denials were based.

MCL 338.41-338.47 (H.B. 4488)

600.934 (H.B. 4489)

339.5105 (H.B. 4490)

333.16104 & 333.21755 (H.B. 4491)

339.104 (H.B. 4492)

339.411 (H.B. 4493)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.