

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)
Act 381 of 1974

***** 338.43.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 4, 2021 *****

338.43.amended Using, examining, or requesting certain criminal records prohibited; prerequisites for furnishing criminal records; rules.

Sec. 3. (1) A licensing board or agency shall not use, examine, or request any of the following criminal records in making a determination of good moral character for use as a requirement to establish or operate an organization or facility regulated by this state or for purposes of occupational or professional licensure:

(a) Records of an arrest that is not followed by a conviction.

(b) Records of a conviction that has been reversed or vacated, including the arrest records relevant to that conviction.

(c) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the individual's likelihood to serve the public in a fair, honest, and open manner.

(d) Records of an arrest or conviction for a misdemeanor for the conviction of which an individual may not be incarcerated in a jail or prison.

(2) A criminal record shall not be furnished to a licensing board or agency except by the principal department, and shall be furnished only after the director of the principal department or an individual designated by the director has determined that the information to be provided to the board or agency meets the criteria set forth in this section.

(3) The director or an individual designated by the director of the principal department shall promulgate rules for each licensing board or agency under that department's jurisdiction that prescribe the offenses or categories of offenses that the department considers indicate an individual is not likely to serve the public as a licensee or registrant in a fair, honest, and open manner. Each licensing board or agency may make recommendations to the director regarding the rules described in this subsection. The rules must be consistent with this act and promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Before the promulgation of the rules pertaining to a licensing board or agency, a licensing board or agency shall consider all felonies to be relevant to the ability or likelihood that an individual will serve the public in a fair, honest, and open manner.

History: 1974, Act 381, Eff. Apr. 1, 1975;—Am. 1978, Act 294, Imd. Eff. July 10, 1978;—Am. 2020, Act 368, Eff. Apr. 4, 2021.

Compiler's note: For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.