



PARDON PROJECT
STEERING COMMITTEE



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Via email: RA-STRegulatoryCounsel@pa.gov

December 16, 2022

Re: 16A-66 (Consideration of Criminal Convictions)
Comments re: Proposed Regulations Implementing Act 53 of 2020
Occupational Licensing Reform Bill – IRCC No. 3361

On behalf of the tens of thousands of low-income individuals and families whom our organization represents, we write to express our disappointment and objections to the proposals drafted by the Department of State to implement Act 53 of 2020.

Before Act 53, licensing authorities were allowed to deny licenses – and careers – to anyone who did not demonstrate “good moral character.” Those words have a long history of empowering racial prejudice. Society is now waking up to the fact that police and prosecutors have used prejudice to color their discretion. The two combined into powerful weapons of state-sponsored discrimination that kept punishing Black and Brown long after they had completed their sentences.

Act 53 of 2020 made that illegal. It required that denials of state-issued licenses because of past criminal convictions be based on objective data and science. We cheered that important, fundamental, and life-giving change in the law!

The proposed regulations fall far, far short of that promise. Nowhere in the proposals is there any limit to how far back in time a licensing board can go before using a conviction to disqualify someone from a career for which they are qualified. How is it that the regulations pay no heed at all to all of the science about recidivism and desistance? The science about the brain that is so key to understanding the wrong decisions of younger adults? The science about addiction that proves people who have been in recovery for seven years are no more likely to commit bad acts than anyone else? How is it that the Department of State has missed all of these facts and all of this science?

Instead, the proposed regulations propose lifetime bans for crimes like theft, forgery, and false-swearing. In our work, we routinely see people whose crimes came out of poverty, addiction, stupid decisions by young adults, and desperation, where stealing bread was necessary for life.

Pardon Project Steering Committee
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People change. Why does the Department of State propose to permanently brand people forever with the worst thing they have ever done in their lives?

The law requires that the criminal conviction be “directly related” to the license (and career) being sought. “Directly related” means *directly* related; not *historically* related. “Direct” requires consideration of the current situation. No one would say that passing tenth grade English was “directly related” to passing the bar examination and becoming a lawyer. Would the courts of law allow evidence about something you did seven, ten or fifteen years ago? No! Why should a licensing board? Is the justice there meant to be less just? Worse, is you are you *proposing* that it be less just!

If you do not feel you have the authority to impose *limits* to the use of criminal records the way we believe Justice demands, then at least use science to include in the regulations *presumptions* that must be overcome in order to deny someone a license. That way, people whose illegal conduct lies far in their past at least know from the start that their history won’t hurt them unless there really is something in their present that disqualifies them. Just listing the crimes without any limit, and presuming they are unfit or a “threat” unless they can prove otherwise will send a very bad message to the people needing those licenses: you’re going to be denied unless the government decides to be nice to you. To us, without lawyers, without connections, without money to fight, what’s the difference between that and the “good moral character” that has been used to deny us justice until now?

The proposed regulations are unscientific, they are unthinking, and by “presuming” the person has done nothing good since they committed a crime, they enable the continuation of racial and social prejudice –worse, they provide the official stamp of government legitimacy. The regulations need to be fundamentally rewritten so that they accomplish the objectives of Act 53 of 2020 and *encourage* getting licenses *except* if there is a good reason to deny them.

We are people with lived experience in the criminal justice system who have repaid our debts to society as a judge has Ordered. We have earned the right to pursue our potentials! Don’t erect even more, formal, “objective,” regulatory barriers to delay our return to full citizenship.

We would be pleased to meet and further discuss our concerns, and we end this letter by asking for that opportunity. Thank you for your consideration of these comments.

For the Pardon Project Steering Committee

By:

A handwritten signature in black ink that reads "Akeem Sims". The signature is written in a cursive style and is underlined with a blue horizontal line.

Akeem Sims, Chair

Cc: melliott@irrc.state.pa.us