



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

Fair Chance Licensing

Regulatory Successes and Perspectives

June 28, 2023 | Josh Gaines

Presentation Outline

I. Organization Overview

II. What We Do

III. Understanding the Need

IV. Panelist Presentations

V. Q & A

The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

How We Work

- We bring people together.
- We drive the criminal justice field forward with original research.
- We build momentum for policy change.
- We provide expert assistance.

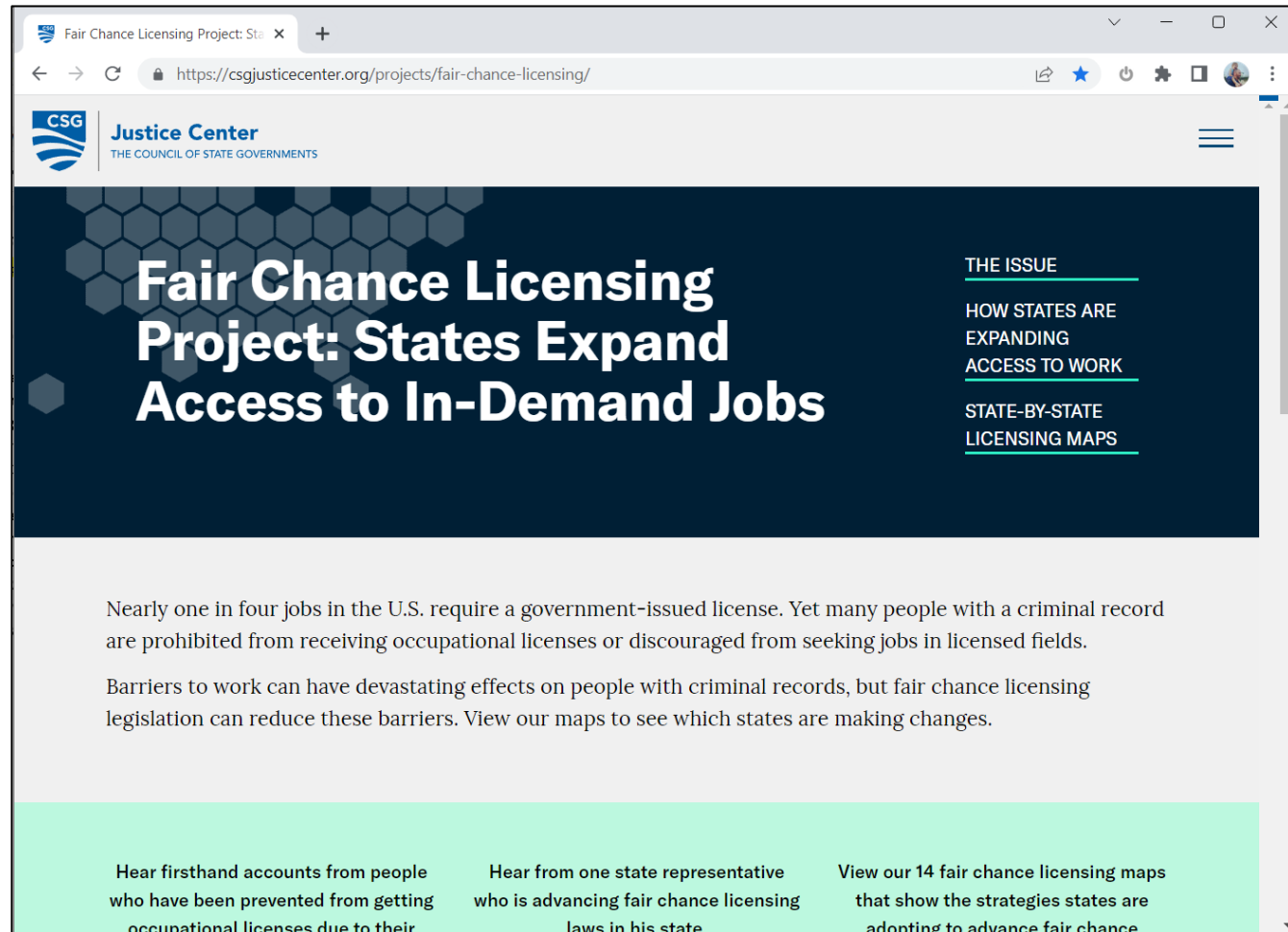
Our Goals

- Break the cycle of incarceration.
- Advance health, opportunity, and equity.
- Use data to improve safety and justice.

Fair Chance Licensing Project

- Assist states in economic recovery.
- Enhance access to well-paying jobs.
- Improve reentry and public safety.
- Provide businesses with qualified candidate pools.

Fair Chance Licensing Hub



<https://csgjusticecenter.org/projects/fair-chance-licensing/>

Criminal History and Economic Mobility

- A 2022 analysis by the Prison Policy Initiative of U.S. Bureau of Justice Statistics data tracking the progress of a cohort of people released from federal prison in 2010 found that
 - **33 percent never found a job** in the 4 years after release;
 - **60 percent or more were jobless** at any given time in those 4 years; and
 - For those looking for work, the **unemployment rate remained around 36 percent** during all 4 years.
- For people who found jobs, most were unstable, and **earnings were far below the U.S. median income.**
- A 2022 Rand Corp. study using data from 1997 to 2017 estimates that **46 percent of unemployed men have a conviction record** for a non-traffic offense by age 35.

Incarceration, race, gender, and joblessness

	Joblessness among U.S. general population (age 35 to 44)	Formerly incarcerated (age 35 to 44)
Black men	7.7%	35.2%
Black women	6.4%	43.6%
White men	4.3%	18.4%
White women	4.3%	23.2%

Source: Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work*.

Why licensed work?

~20%

Percentage of U.S. population that hold a license required to perform a particular occupation or profession (Kleiner and Vortnikov, *At What Cost?*)

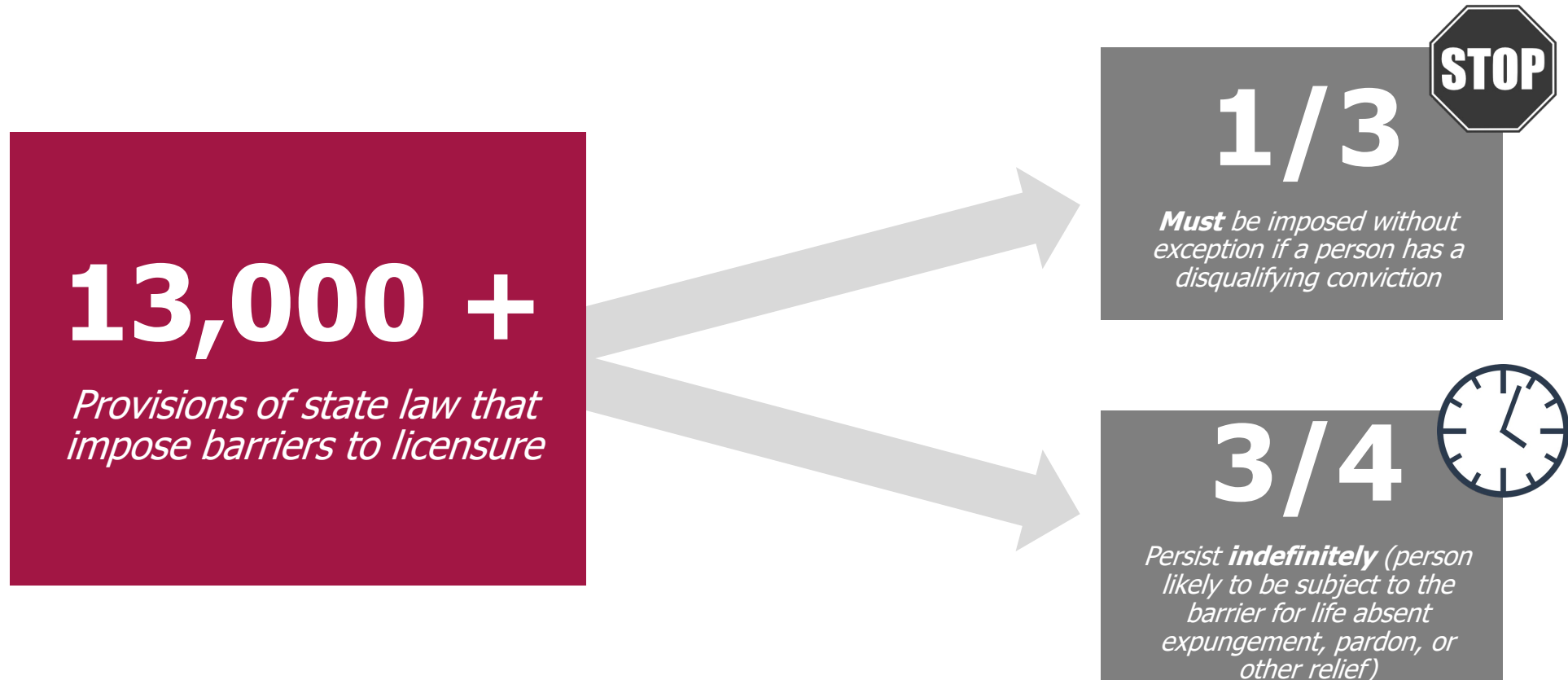
\$7.36

Hourly wage dollars that licensed workers earn over unlicensed workers (national median) (Kleiner and Vortnikov, *At What Cost?*)

13,000+

Number of provisions of state and federal statutes and regulations that create barriers to licensure for people with criminal histories (Umez and Gaines, *After the Sentence, More Consequences*)

Conviction-Based Barriers to Licensure across the Country



Source: Umez and Gaines, *After the Sentence, More Consequences*

Discretionary barriers can deter qualified workers who pose no risk from entering licensed fields, even if they would NOT ultimately be disqualified.

Should I pursue a physical therapy license with a conviction?



Mitigating Licensing Barriers and Protecting Public Safety

Over half of the states have enacted broadly applicable fair chance licensing laws in one form or another.

Recent reforms are based on three key principles:

1. Licensing bodies should have the authority to deny applicants with past convictions that **directly relate to the tasks and duties** of a licensed activity such that licensure would create an **appreciable risk to public safety**.
2. Workers should not be barred from licensure solely because of a past conviction; instead, they should be given **individualized consideration** that accounts for their past and current circumstances and the unique nature of their criminal conduct.
3. Licensing policies and practices involving determinations about the criminal history of applicants should be **transparent and consistently applied**.

Major Categories of State Reforms

- **Substantive guidance on how convictions are considered**
 - Individualized consideration requirements
 - Consistent factor-based assessment
 - Direct relationship requirements
- **Transparent and accessible procedures and protections**
 - Pre-qualification
 - Robust appeal and reconsideration structures and due process reinforcements
 - Online information
- **Limits on the types of convictions and dispositions that can be considered**
 - Older convictions
 - Less serious offenses
 - Arrests without conviction
 - Pardoned, sealed, or expunged records

Sources

- Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, Prison Policy Initiative, July 2018, accessed June 13, 2023, <https://www.prisonpolicy.org/reports/outofwork.html>.
- Morris M. Kleiner and Evgeny S. Vorotnikov, *At What Cost? State and National Estimates of the Economic Costs of Occupational Licensing* (Institute for Justice, 2018).
- Chidi Umez and Josh Gaines, *After the Sentence, More Consequences: A National Snapshot of Barriers to Work* (New York: The Council of State Governments Justice Center, 2021).
- "Fair Chance Licensing Project: States Expand Access to In-Demand Jobs," The Council of State Governments Justice Center, accessed June 1, 2023, <https://csgjusticecenter.org/projects/fair-chance-licensing/>.

Deborah Blackburn, JD

Assistant Director



UTAH DEPARTMENT
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Division of Professional Licensing

Criminal History

Focus on convictions/pleas that, *when considered with the functions and duties of the profession, bear a “**substantial**” relationship to the ability to safely or competently practice.*



UTAH DEPARTMENT
OF COMMERCE

Division of Professional Licensing



DIVISION OF PROFESSIONAL LICENSING

Strengthening trust in Utah's professional workforce through effective licensing, balanced regulation, and consumer engagement to ensure informed decisions

Licenses

Verify a License

Update Your License Record

Internationally-Trained
Applicant Information

Criminal History Guidelines

Military Resources

Licensing and Miscellaneous
Fees



Information on dopl.utah.gov



Every profession has a landing page with a Criminal History tab available for information specific to that profession.

Contracting

- Welcome
- Exam Information
- Licensing
- Laws and Rules
- Board Information
- Related Information
- Criminal History**
 - Overview
 - Guidelines
 - Application for Criminal History Determination
 - Criminal History Guidelines – Frequently Asked Questions
- Internationally-Trained Applicant Information
- Frequently Asked Questions
- Contact Us

Announcements

Application and Fee Changes

Licensing applications and fees change periodically. To ensure you are always getting the most recent information, please use the current version of the application from this website.

Pre-Licensure Course Providers

The following are the ONLY providers approved to administered the State required pre-licensure courses:

- [Associated Builders and Contractors \(ABC\)](#)
- [Associated General Contractors \(AGC\)](#)
- [Associated General Contractors - St George \(AGC - St George\)](#)
- [Utah Home Builders Association \(HBA\) - Draper](#)
- [Utah Home Builders Association \(HBA\) - St. George](#)
- [Utah Home Builders Association \(HBA\) - Ogden](#)
- [Utah Home Builders Association \(HBA\) - Logan](#)
- [Utah Home Builders Association \(HBA\) - Spanish](#)
- [Utah Home Builders Association \(HBA\) - Night Classes](#)

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Criminal History Guidelines



Disclaimer: The Division uses this matrix simply as a starting point in making its licensing or disciplinary decisions, and therefore it is provided only for general informational and guidance purposes. Every applicant and licensee is unique, with individual circumstances that may involve aggravating or mitigating or other factors, including patterns of conduct that may affect any final decision. Please consult your attorney if you have questions.

KEY:

Proceed with Application	Requires Manager Review & Possible Interview	Licensure Prohibited
--------------------------	--	----------------------

CHARGE	TIME FRAME (most recent charge)			
	0-1 years	2-5 years	6-10 years	10+ years
Abuse or Neglect of a Child with a Disability	Review	Review	Issue	Issue
Abuse, Neglect, or Exploitation of a Vulnerable Adult	Review	Review	Issue	Issue
Alcohol Restricted Driver	Issue	Issue	Issue	Issue
Animal Cruelty	Issue	Issue	Issue	Issue



Security Companies and Guards

Welcome

Exam Information

Approved Training Programs

Licensing

Security Companies and Guards –
Continuing Education

Laws and Rules

Board Information

Related Information

Criminal History

Overview

Guidelines

Application for Criminal History
Determination

Frequently Asked Questions

Internationally-Trained Applicant
Information

Contact Us

Criminal History Guidelines



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Abuse or Neglect of a Child with a Disability	Review	Review	Review	Review
Abuse, Neglect, or Exploitation of a Vulnerable Adult	Review	Review	Review	Review
Alcohol Restricted Driver	Issue	Issue	Issue	Issue
Animal Cruelty	Review	Review	Review	Review
Arson	Deny	Deny	Deny	Deny



Published Criminal History Guidelines

Nursing

- WELCOME / FAQs
- EXAM INFORMATION
- LICENSING
- LAWS & RULES
- BOARD INFORMATION
- CONTACT US
- RELATED INFORMATION
- CRIMINAL HISTORY**
 - Application for Criminal History Determination
 - Criminal History Guidelines**
 - Frequently Asked Questions
 - Overview
- MILITARY RESOURCES

Criminal History Guidelines for Nursing

DISCLAIMER: The Division uses this matrix simply as a starting point in making its licensing or disciplinary decisions, and therefore it is provided only for general informational and guidance purposes. Every applicant and licensee is unique, with individual circumstances that may involve aggravating or mitigating or other factors, including patterns of conduct that may affect any final decision. Please consult your attorney if you have questions.

KEY:

Proceed with Application	Requires Manager Review	Requires Board Interview	License Prohibited
--------------------------	-------------------------	--------------------------	--------------------

CHARGE	TIME FRAME (most recent charge)			
	0-1 yrs	2-5 yrs	6-10 yrs	10+ yrs
Alcohol Restricted Driver	Issue	Issue	Issue	Issue
Animal Cruelty	Interview	Review	Issue	Issue
Assault By A Prisoner	Deny	Deny	Deny	Deny
Assault	Interview	Review	Issue	Issue
Aggravated Assault	Deny	Deny	Deny	Deny
Battery	Interview	Interview	Interview	Interview
Burglary / Burglary Of A Vehicle	Interview	Interview	Interview	Interview
Child Abuse	Deny	Deny	Deny	Deny
Domestic Violence	Interview	Interview	Interview	Interview



Removal of “good moral character” from statute



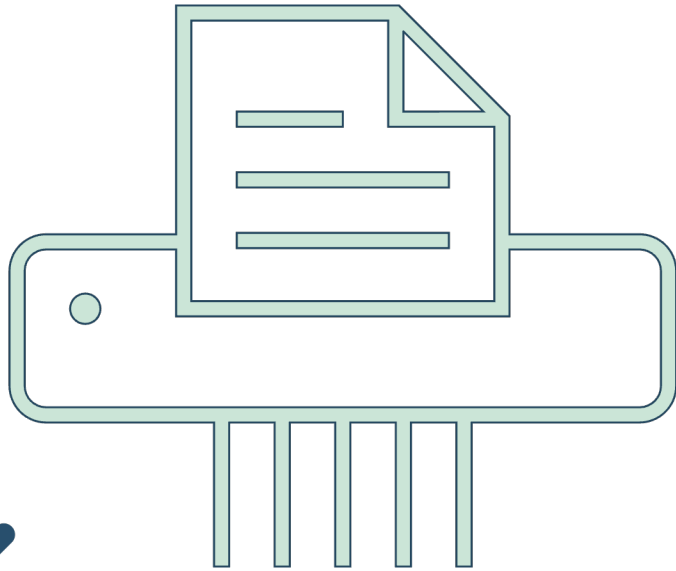
Individualized Consideration

Utah Code 58-1-401(7)

- Age when crime committed
- Time elapsed
- Completion of sentence
- Rehabilitation efforts (drug/alcohol/other)
- Education/training pursued
- Employment history
- Testimonials/recommendations
- Any relevant information they provide



DOPL will NOT consider as evidence of unprofessional conduct:



- Arrest not followed by conviction
- Convictions for which incarceration ended more than 7 years before DOPL's consideration (exclusions for certain felonies (such as felony related to criminal sexual act or criminal fraud/embezzlement))
- Expunged crimes



UTAH DEPARTMENT
OF COMMERCE

Division of Professional Licensing

Streamlined Qualifying Questionnaire

QUALIFYING QUESTIONNAIRE

Read thoroughly, and answer each question. Do not leave any question blank.

A "yes" answer does not necessarily mean you will not be granted a license; however, DOPL may request additional documentation if the information submitted is insufficient.

1. Yes No Have you ever had a license, certificate, permit, or registration to practice a regulated profession denied, conditioned, curtailed, limited, restricted, suspended, revoked, reprimanded, or disciplined in any way?
2. Yes No Have you ever been permitted to resign or surrender your license, certificate, permit, or registration to practice in a regulated profession while under investigation or while action was pending against you by any professional licensing agency or criminal or administrative jurisdiction?
3. Yes No Are you currently under investigation or is any disciplinary action pending against you now by any *local, state or federal licensing, enforcement or regulatory agency*?
4. Yes No Have you ever been declared by any court to be incompetent by reason of mental defect or disease and not restored?
5. Yes No Have you ever had a documented case in which you were involved as the abuser in any incident of verbal, physical, mental, or sexual abuse?
6. Yes No Have you been terminated, suspended, reprimanded, sanctioned, or asked to leave voluntarily from a position because of drug or alcohol use or abuse within the past five (5) years?
7. Yes No Are you currently using or have you recently (*within 90 days*) used any drugs (*including recreational drugs*) without a valid prescription, the possession or distribution of which is unlawful under applicable state or federal laws?
8. Yes No Have you ever unlawfully used any drugs for which you have not successfully completed, or are not now participating in a supervised drug rehabilitation program, or for which you have not otherwise been successfully rehabilitated?
9. Yes No Do you currently have any criminal action pending?*
10. Yes No Have you pled guilty to, no contest to, entered into a plea in abeyance or been convicted of a misdemeanor in any jurisdiction within the past ten (10) years? *
11. Yes No Have you ever pled guilty to, no contest to, or been convicted of a felony in any jurisdiction?*
12. Yes No Have you ever been incarcerated for any reason in any correctional facility (*domestic or foreign*) in any jurisdiction or on probation/parole in any jurisdiction?*

OLD



Streamlined Qualifying Questionnaire

QUALIFYING QUESTIONNAIRE

Read thoroughly, and answer each question. Do not leave any question blank.

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2. Yes No Have you ever been permitted to resign or surrender your license, certificate, permit, or registration to practice in a regulated profession while under investigation or while action was pending against you by any professional licensing agency or criminal or administrative jurisdiction?
3. Yes No Are you currently under investigation or is any disciplinary action pending against you now by any local, state or federal licensing, enforcement or regulatory agency?
4. Yes No Have you ever been declared by any court to be incompetent by reason of mental defect or disease and not restored?
5. Yes No Have you ever had a documented case in which you were involved as the abuser in any incident of verbal, physical, mental, or sexual abuse?
6. Yes No Have you been terminated, suspended, reprimanded, sanctioned, or asked to leave voluntarily from a position because of drug or alcohol use or abuse within the past five (5) years?
7. Yes No Are you currently using or have you recently (within 90 days) used any drugs (including recreational drugs) without a valid prescription, the possession or distribution of which is unlawful under applicable state or federal laws?
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12. Yes No Have you ever been incarcerated for any reason in any correctional facility (domestic or foreign) in any jurisdiction or on probation/parole in any jurisdiction?*

QUALIFYING QUESTIONNAIRE

Do not leave any question blank.

DOPL may request additional documentation if the information submitted is insufficient.

1. Yes No Have you EVER had a license, certificate, permit, or registration to practice a regulated profession denied, conditioned, curtailed, limited, restricted, suspended, revoked, reprimanded, resigned, or surrendered while under investigation, or otherwise **disciplined in any way**?
2. Yes No Do you CURRENTLY have any criminal action active or pending?
3. Yes No WITHIN THE PAST 10 YEARS, have you pled **guilty** to, **no contest** to, entered into a **plea in abeyance**, or been **convicted of a misdemeanor** in any jurisdiction?
4. Yes No Have you EVER pled **guilty** to, **no contest** to, entered into a **plea in abeyance**, or been **convicted of a felony** in any jurisdiction?

New



Advance Criminal History Determination Application

Criminal History Guidelines

Overview

Application for Criminal History Determination

What Crimes Affect my Path to Licensure?

Frequently Asked Questions

Individuals may apply for criminal history determination **BEFORE** pursuing training, education, etc. for a particular career requiring a license.

Application for Criminal History Determination

This application is for non-licensed use ONLY. If you are needing a criminal history determination for multiple license types, you will need to complete a separate application for each. Do not use when applying for or renewing a license.

Download Application Form 

Some licensing laws prohibit certain criminal history. You may submit this application at any time **BEFORE** applying for a license (even before completing any training or education for the license).

A Criminal History Determination Application IS NOT a BCI Report. To obtain a BCI Report, contact the Utah Bureau of Criminal History at the following link: <https://bci.utah.gov/criminal-records/criminal-records-forms/>



Application Process

What To Disclose In Your Application

Only the criminal incidents that you include in the application will be considered. Any omissions, either intentional or unintentional, may invalidate a Determination.





Thank you!

Visit dopl.utah.gov/criminal-history-guidelines/ or each professional page for more information about criminal history and professional licensing in Utah.





Aveda Arts & Sciences Institutes



LABOC Rule Change

<p>Pg.16/17 §1715. (A) Miscellaneous Provisions</p>	<p>A. <u>Criminal Background. Applicants shall not be disqualified from or denied issuance of a certificate of registration based on a prior criminal record</u></p>	<p>Specifies LSBC position on subject matter.</p>
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**LCIW Student
Instructors at
LCIW
Cosmetology
School**



Lauren Williams, Cosmetology Educator

“The students at LCIW are so hungry for knowledge and training that it is very rewarding for her as a teacher. Lauren reports they come overly-prepared and eager.”



**Instructor
Practical
Exam
Administ
ered at
LABOC**





First Five Program
Graduates

Thank You!

Join our distribution list to receive updates and announcements:

<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact
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