

Assembly Bill 3039 – Dept. of Social Services Occupational Licensing

Assemblymember Chris R. Holden

SUMMARY

AB 3039 creates a fair chance for people with arrest and conviction records to access caregiving and other jobs governed by the Department of Social Services (DSS). The bill clarifies which prior convictions may be considered or exempted, and streamlines the process used by DSS to evaluate potential caregivers and others with a record of conviction or arrest.

BACKGROUND

The Department of Social Services registers Home Care Aides and issues licenses, permits and certificates of approval for people to operate or provide direct care services in a community care facility, residential care facility for the elderly, or child care center.

DSS requires any applicant who has **ever** been convicted of **any** crime other than a minor traffic violation to obtain a criminal record “exemption” from DSS before they can work in a facility. DSS can and does deny exemptions based on conviction, even if the conviction is very old or unrelated to caregivers’ work, and even when applicants have shown success as caregivers.

After reviewing their DSS cases over the past two years, the East Bay Community Law Center discovered that 55.5% of the clients seeking DSS exemptions were African American women specifically. These women and other applicants often lose out on employment opportunities for which they are well qualified due to the long, arduous, and overly restrictive exemption process.

Low-income women of color are hit especially hard by DSS’s restrictive criminal record screening rules, given the disproportionate rate of arrests and low-level criminal convictions in communities of color. These women often seek caregiver and related work based on past experience and success in those roles, as well as a desire to give back to their communities.

EXISTING LAW

Under existing law, DSS requires any applicant who has ever been convicted of any crime other than a minor traffic violation to obtain a criminal record “exemption” from DSS before they can work in a facility. DSS can and does deny exemptions based on even very old convictions unrelated to caregivers’ work, and even when applicants have shown success as caregivers. The exemption process is extremely burdensome for both DSS and exemption applicants and can take more than 75 days to complete – so long that even people granted exemptions end up losing jobs due to the delay.

Existing law also requires DSS to conduct extensive background investigations into applicants who have never been convicted of a crime but who have been arrested for a serious offense, leading to similar challenges.

THE SOLUTION

Assembly Bill 3039:

- Allows applicants to show rehabilitation and suitability for licensing and employment;
- Allows DSS to consider all criminal convictions that are less than five years old and violent felonies regardless of age if they are directly and adversely related to the qualifications, functions or duties of the business;
- Prohibits DSS from denying applicants on the basis of infractions and convictions that are more than five years old unless they are directly and adversely related violent felonies;
- Prohibits DSS from requiring applicants to disclose any information regarding their criminal history as a condition of employment. DSS is still mandated to run a criminal background check on each applicant through the California Department of Justice;
- Streamlines the DSS denial and applicant dispute process;
- Prohibits denial of a DSS exemption for convictions that have been dismissed under

Penal Code sections 1203.4, 1203.4a, 1203.41 or 1203.42, or where an applicant has obtained a certificate of rehabilitation or was granted a pardon.

AB 3039 does not make major changes to the procedure for licensing foster family homes, certified family homes or resource family homes of a licensed foster family agency.

SUPPORT/OPPOSITION

Support

East Bay Community Law Center (Sponsor)
Root & Rebound (Sponsor)
Legal Services for Prisoners with Children (Sponsor)
Anti-Recidivism Coalition (Sponsor)
All of Us or None
National Association of Social Workers - California chapter
REDF (Roberts Enterprise Development Fund)
Rise Together Bay Area
San Jose State University Record Clearance Project
Californians for Prop 57
Anchor of Hope Ministries
Center for Living and Learning
Checkr
Because Black is Still Beautiful
Californians for Safety and Justice
Los Angeles Regional Reentry Partnership (LARRP)
Prisoner Reentry Network
Center for Employment Opportunities (CEO)
Project Rebound: Expanded
The Young Women's Freedom Center
The Timelist Group

Opposition: None on file.

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