

Louisiana

Licensing & Other Barriers to Growing Occupations That Unfairly Exclude People with Records

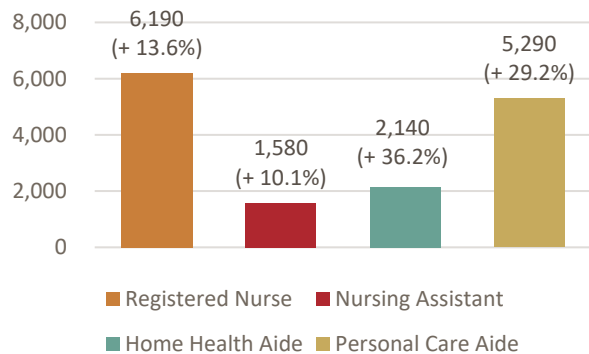
One in three Louisiana adults, disproportionately people of color, have an arrest or conviction record that may prevent them from working in a variety of occupations regulated by the state.¹ Louisiana requires a license or certification for **some of the largest and fastest-growing professions**, such as healthcare occupations. While Louisiana has enacted positive new laws expanding the rights of people with records, many occupational licensing boards and agencies still have **broad discretion to reject applicants based on unrelated or old convictions**—an unfair result that undermines economic health, government efficiency, community wellbeing, and racial equity.

Four major industries—healthcare, K-12 education, childcare, and private security—stand out as including large, growing occupations, for which Louisiana law requires a criminal background check. These occupations account for over 1 in 10 annual job openings in Louisiana and are, collectively, growing at a rate of 12.5%, which is well above the average growth rate (8.3%) for occupations in the state.²

Barriers to Rapidly Growing Healthcare Professions

Healthcare professions include some of the fastest-growing occupations in Louisiana, measured by both the number of new jobs being created and the percent growth. While employers cite difficulties in filling many healthcare job openings, Louisiana background check restrictions often block qualified workers with records from filling certain healthcare positions. The standards used to evaluate a person’s record in these fields remain vague, overly restrictive, and often inadequately tailored to the goals of advancing community safety, economic growth, government efficiency, and racial equity.

Rapid Growth in LA Licensed Healthcare Occupations, 2016–2026



Source: U.S. Dep’t of Labor, Bureau of Labor Stats., Employment Projections—2016-2026, <https://data.bls.gov/projections/occupationProj>.

Legend:	✔ Enhances equity	⚠ Potential for bias	✘ Source of unfairness
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Occupation	Basis for Disqualification	Non-Conviction Information	Relevancy & Procedural Protections
Registered Nurse³ (Bd. of Nursing)	<ul style="list-style-type: none"> ✘ Mandatory, permanent disqualification for enumerated violent and sex offenses. ✘ Mandatory, 5-year disqualification for broad list of felony and misdemeanor offenses. ⚠ Vague “good moral character” requirement. ⚠ Discretionary disqualification if “guilty of moral turpitude” or convicted of offense showing lack of regard for “health and safety of clients or patients.” 	<ul style="list-style-type: none"> ✘ May consider expunged and pardoned convictions, “nolo contendere” pleas, and withheld adjudications.⁴ 	<ul style="list-style-type: none"> ✘ No express requirement to consider time since offense, nature of offense, or relatedness of offense to occupations.

<p>Certified Nurse Aide, Home Health Care Aide & Personal Care Aide⁵</p>	<ul style="list-style-type: none"> Mandatory, permanent disqualification for most violent and sex offenses as well as felony theft and certain drug offenses. 	<p>⚠ Disqualifying offenses are generally limited to convictions.</p>	<ul style="list-style-type: none"> No express requirement to consider time since offense, nature of offense, and relatedness of offense to occupation. No express right to written decision, notice, or appeal.
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Barriers to Careers in K-12 Education, Childcare, and Private Security

Roughly 88,000 Louisiana workers are employed in K-12 education jobs that require certification or as childcare workers or private security guards. Over 9,000 job openings in those fields emerge each year, and that number continues to increase. Despite the growing need for qualified applicants, Louisiana law prevents many people with records from obtaining the certification or other clearances that would enable them to fill those vacancies.

Standards Applicable to All School Employees

Even for non-licensed positions, Louisiana law requires fingerprinting of all employees at public and private schools. Schools are prohibited from hiring individuals who have ever been convicted of a range of violent, sex, and drug offenses.⁶

Significant Barriers to Becoming a Licensed Practical Nurse (LPN)

In addition to vague moral character requirements, the Louisiana State Board of Practical Nurse Examiners provides a lengthy list of offenses that may prevent an applicant from sitting for the state exam—**even if expunged or pardoned**. While the Board may deny applicants for additional offenses, it expressly lists **dozens of disqualifying offenses—as insignificant as “unauthorized use of food stamps.”** Although not mandatory, this lengthy list certainly has a chilling effect on potential applicants.⁷

Occupation	Basis for Disqualification	Non-Conviction Information	Relevancy & Procedural Protections
<p>K-12 Teacher⁸ (Bd. of Elementary & Secondary Educ.)</p>	<ul style="list-style-type: none"> Mandatory, permanent disqualification for a range of violent, sex, and drug offenses (felonies and misdemeanors). Mandatory, 5-year disqualification for any other felony (discretionary thereafter). 	<ul style="list-style-type: none"> May consider expunged, pardoned, and set-aside convictions, “nolo contendere” pleas, withheld adjudications, and pretrial diversions. 	<ul style="list-style-type: none"> No express requirement to consider time since offense, nature of offense, and relatedness of offense to occupation. Right to notice and opportunity to challenge accuracy of record, and, when disqualification is discretionary, to produce evidence of rehabilitation.
<p>Childcare Worker⁹</p> <p>Private Security Guard¹⁰ (Bd. of Priv. Sec. Examiners)</p>	<ul style="list-style-type: none"> Mandatory disqualification for a range of violent, sex, and drug offenses. Mandatory, permanent disqualification for “any crime of violence.” Mandatory, 10-year disqualification for any felony. 	<ul style="list-style-type: none"> Disqualifying offenses are generally limited to convictions. 	<ul style="list-style-type: none"> No express requirement to consider time since offense, nature of offense, and the relatedness of offense to occupation.

Recommended Fair Chance Licensing Reforms for Louisiana

Adopt reasonable limits on the discretion of the boards and agencies to ensure that people with arrest and conviction records have fair access to careers requiring an occupational license or certification.

- 1** **Expand recently adopted reforms, including the “Licenses for Ex-Offenders Act of 2017,”¹¹ to benefit more workers:**
 - Extend the 2017 law beyond occupations that require a “license” to also include occupational certifications, employer background checks, and other non-license credentials.
 - Broaden the reforms to cover currently exempted demand occupations, such as most healthcare jobs.
- 2** **Build on existing positive features of state law,¹² by adopting comprehensive reforms that have already been embraced by other states:**
 - Eliminate the many blanket, lifetime disqualifications in current law in favor of standards that take into account the age and nature of the offense and its relationship to the specific duties of the profession.
 - Establish a clear process requiring consideration of evidence of rehabilitation and other mitigating circumstances and allowing the individual to challenge the accuracy of any background check report.
- 3** **Build on the transparency and accountability features of the 2017 law:**
 - Audit boards and agencies to ensure compliance with reforms.
 - Require the collection and reporting of data, such as the number of people denied licenses or certifications because of an arrest or conviction record.
 - Authorize a study documenting the impact of conviction history restrictions on the number of people applying to be licensed or certified for careers regulated by the state.

Vague Terminology Increases Unpredictable Outcomes & Discrimination

Laws and regulations that invoke vague standards—such as “**guilty of moral turpitude**” and “**good moral character**”—reduce predictability, consistency, and fairness among decisions, while allowing implicit bias to impact outcomes.

Promote Fairness by Considering Common-Sense Relevancy Factors

To comply with Title VII of the Civil Rights Act of 1964, employers should consider three simple, common-sense factors when contemplating a record-related rejection:

- (1) Nature and gravity of the offense;**
- (2) Time that has passed since the offense; and**
- (3) Nature of the job**

Fair and effective occupational licensing laws similarly require state agencies to weigh the time since an offense and prohibit exclusions based on convictions that are unrelated to the occupation.¹³

→ For more information, visit <https://www.nelp.org/campaigns/fair-chance-licensing-people-records/>

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ENDNOTES

¹ NELP, *Fair Chance Licensing Reform: Opening Pathways for People with Records to Join Licensed Professions* app. E (2019), <https://www.nelp.org/publication/fair-chance-licensing-reform-opening-pathways-for-people-with-records-to-join-licensed-professions/>.

² U.S. Dep’t of Labor, Bureau of Labor Stats., *Employment Projections—2016-2026*, <https://data.bls.gov/projections/occupationProj> (last visited Aug. 23, 2019).

³ La. Stat. Ann. §§ 37:921, 923; La. Admin. Code, tit. 46, Pt. XLVII, §§ 3324-25, 3331, 3403.

⁴ A “nolo contendere” plea does not admit guilt.

⁵ Louisiana law generally requires that health care providers conduct criminal background checks of most certified nurse aides (CNA), home health and personal care aides, and other “non-licensed” individuals who provide health-related services. La. Stat. Ann. §§ 40:1203.1(5), 1203.2, 1203.3, 2120.57; La. Admin. Code, tit. 48, § 9759. For a list of disqualifying offenses, see La. Dep’t of Health, “Criminal Convictions that Bar Employment of Unlicensed Persons and Ambulance Personnel,” <http://ldh.la.gov/assets/docs/OCDD/waiver/ProviderQA/HSSCriminalConvictionsthatBarEmploymentofUnlicensedPersonsandAmbulancePersonnell.pdf>.

⁶ The law regulating public and non-public school employees extends broadly to temporary, part-time, and full-time school employees, including teachers, janitors, bus drivers, and other workers. La. Stat. Ann. §§ 17:15,15:587.1(C).

⁷ La. State Bd. of Practical Nurse Examiners, *Criminal Background Information Affecting Application for Licensure*, <https://www.lsbpne.com/blog/wp-content/uploads/2019/06/Criminal-Background-Information-Possibly-Affecting-App-for-Licensure.pdf> (last visited Oct. 20, 2020).

⁸ La. Stat. Ann. §§ 17:15, 15:587.1(C); La. Admin. Code, tit. 28, Pt. CXXXI, §§ 901-13 (2020).

⁹ The law regulates most childcare workers, including those employed by licensed facilities, early learning centers, and family/in-home childcare providers. La. Stat. Ann. §§ 15:587.1, 587.1.1, 17:407.42, 407.71. *See also* La. Dep't of Educ., "Summary of Reasons a Person May be Found Ineligible for Child Care Purposes" (2019), https://www.louisianabelieves.com/docs/default-source/early-childhood/prohibited-offenses.pdf?sfvrsn=ce9f9e1f_2.

¹⁰ The law regulates private security officers, who must meet the criminal background check restrictions of the Board of Private Security Examiners to be issued a registration card. La. Stat. Ann. §§ 37:3279, 3283(A)(4)(c).

¹¹ La. Stat. Ann. §§ 37:31-36. Louisiana also recently passed laws delaying criminal history inquiries for state jobs until after a conditional offer of employment, La. Stat. Ann. § 42:1701, removing the criminal history inquiry from applications to the state's public colleges and universities, La. Stat. Ann. § 17:3138, and removing consideration of student loan repayment status from licensing determinations, La. Stat. Ann. § 37:2951.1.

¹² Louisiana boards that issue an occupational "license, permit or certificate" are also governed by La. Stat. Ann. § 37:2950, requiring that a disqualifying offense "directly relates" to the specific occupation and that the individual be provided a statement of reasons for the criminal record disqualification.

¹³ *See, e.g.*, Equal Emp't Opportunity Comm'n, *Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* (2012), https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.