



Occupational Licensing Policy Reform

Georgia Justice Project

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Georgia Justice Project

CRIMINAL DEFENSE

- Pending cases in Fulton and DeKalb
- Holistic model
- Probation
- Metro Reentry Facility – detainers/holds, Driver's License issues/FTAs
- Prison visitation and reentry support



REENTRY LAWYERING

- Criminal records clearing – statewide
- Metro Reentry Facility – child support, IDs, employment services
- Occupational licensing
- Employer/housing advocacy
- Expungement summits
- Educational Materials & Presentations

POLICY CHANGE

- Probation Reform
- Driver's License Suspension
- Child Support Reform
- Occupational Licensing
- Expungement



GJP & Occupational Licensing

- Representing clients with criminal records in licensing proceedings
- Educating community on licensing issues
- Advocating for better licensing policy



Roadmap



Intro to Criminal Records



Importance of Licensing Reform



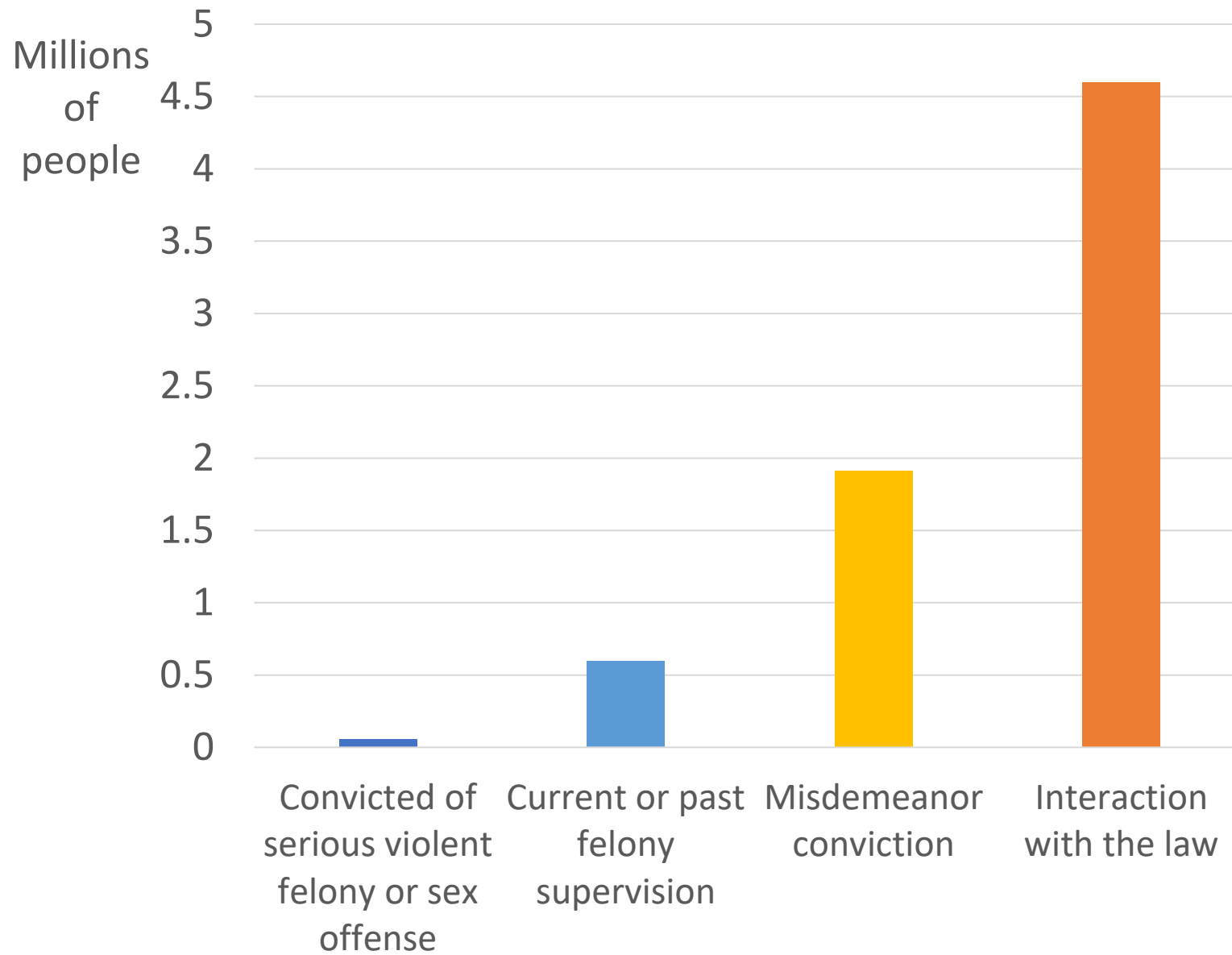
Barriers in GA Licensing Law



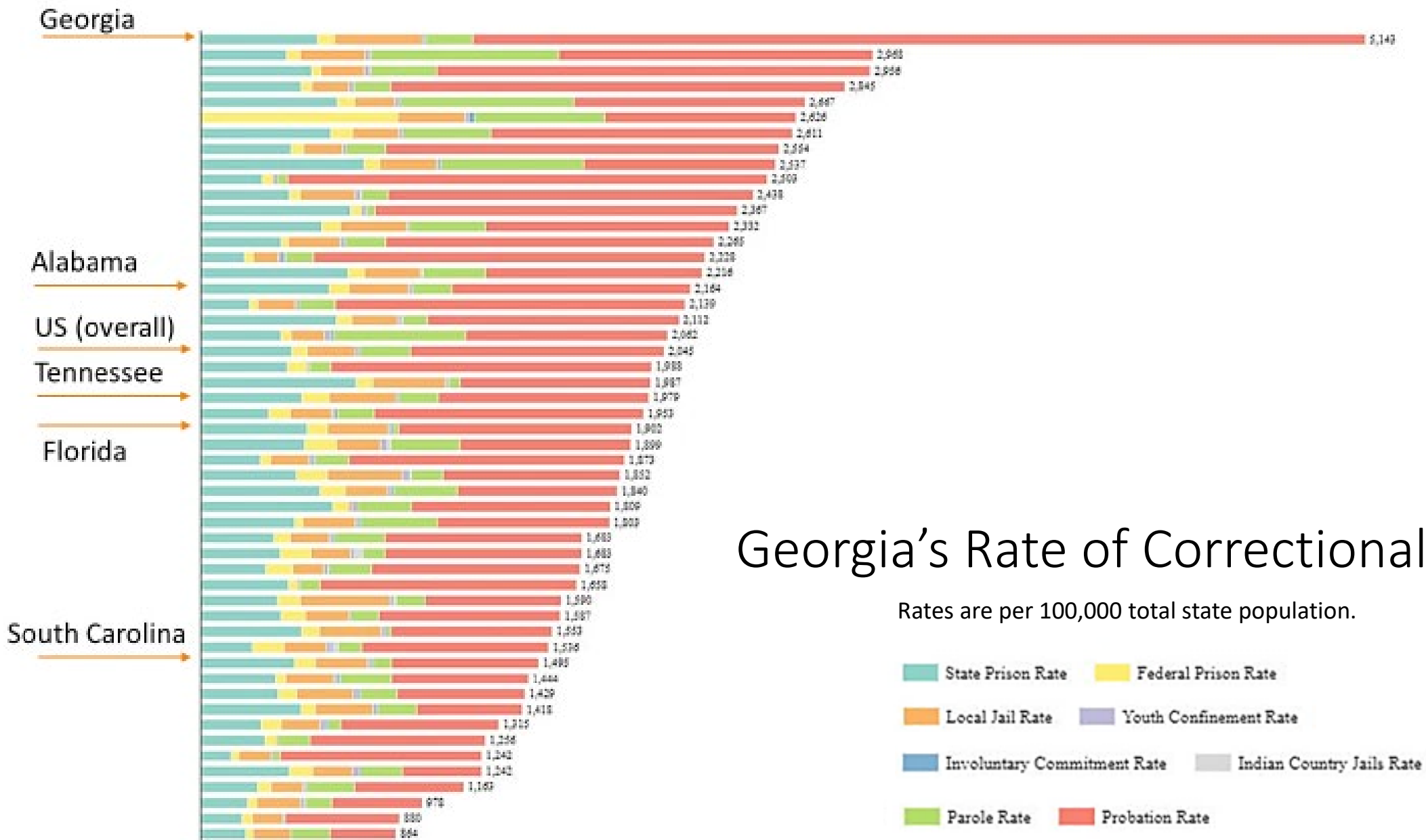
Client Stories



Policy Solutions



Criminal Records in Georgia



Untapped Pool of Quality Employees

Unemployment rate is 5 times higher for people with criminal records

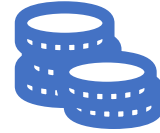
Almost all recidivism happens within 5 years of arrest

Individuals with jobs are 2x likely to avoid arrest than those unemployed

Quality employees: more motivated, better retention, promoted faster

Strong liability protections for employers in Georgia

Why Licensing Reform?



Benefits of
professional
employment



Workforce
development
and shortages



Outdated
barriers to entry



Benefits of Licensed Employment

Broader employment options

Higher wages

Lower unemployment

Lower turnover

Enables entrepreneurship

Georgia's Licensed Workforce Shortage



- Some of the most in-demand jobs require a license
 - ex: licensed contractors, teachers, nurses, accountants, truck drivers
- Home health and personal care aides = fastest growing profession
- Construction skilled trade worker shortage

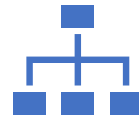


Licensing Reform as Economic Development

National GDP reduced by \$78-87 billion yearly because of record-related employment barriers

0.9% reduction in employment rate

What's the State of Georgia Licensing Law Today?



Structure



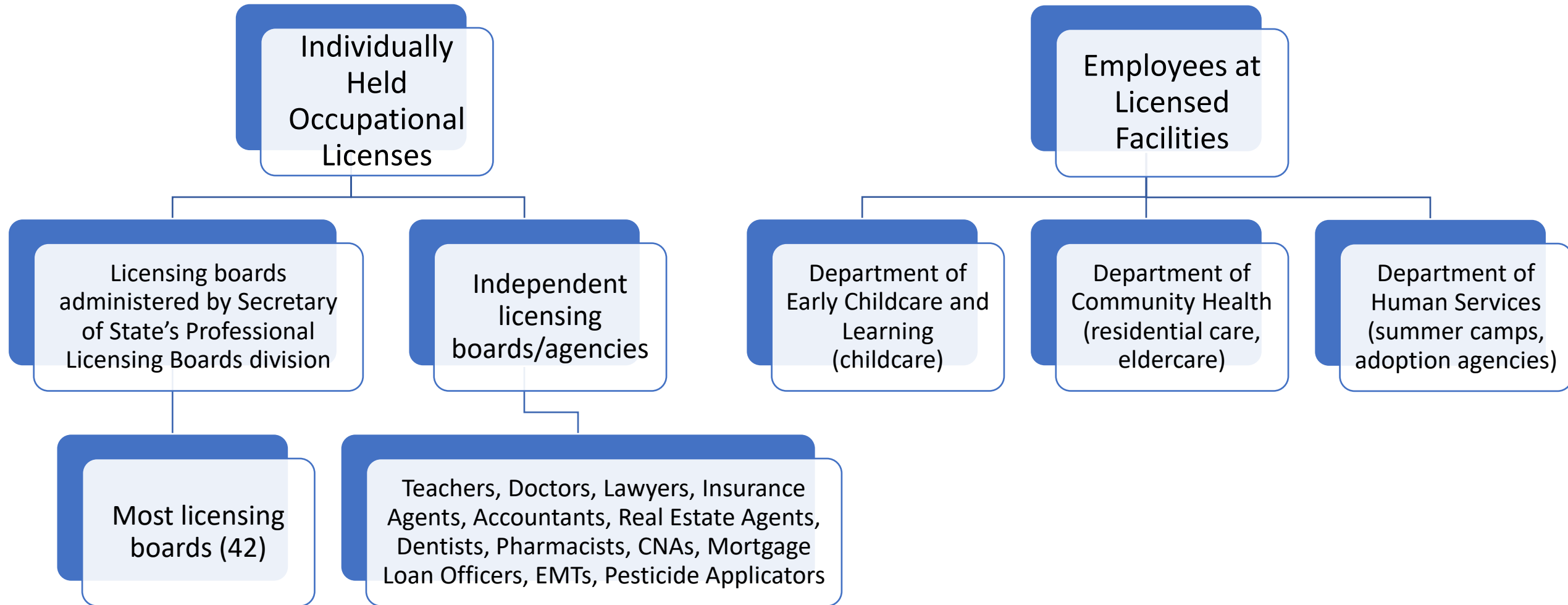
Strengths



Shortcomings



Structure of Licensing Regulations



Strengths in Georgia Licensing Law:

S.B. 367
(2016)

*Licensing boards can only deny or revoke an occupational license based on criminal record if the arrest/charge/conviction **directly relates** to the occupation for which the license is sought or held.*

Must consider:

- **Nature and seriousness** of the offense
- **Relationship** between offense and licensed occupation
- **Age** of the individual at the time of offense
- **Length of time elapsed** since offense
- **All relevant circumstances**, including mitigating circumstances or social conditions
- **Evidence of rehabilitation** and present fitness to perform the duties of the licensed occupation

O.C.G.A. § 43-1-19(q)


Strengths in Georgia Licensing Law:

S.B. 114
(2021)

*Licensing boards cannot deny or revoke an occupational license solely because the licensee is on **probation or parole**.*

- ❖ Exception: licensee on supervision for a felony crime against the person (like battery, assault, homicide, stalking, kidnapping) or for a crime requiring sex offense registry.

O.C.G.A. § 43-1-19(q)



Barriers in Georgia Licensing Law

Pre-licensing:


- **No clear guidance** to potential applicants about criminal record requirements

During licensing process:

- **Required disclosure** of entire criminal record, even if restricted/sealed or pardoned
- **Boards consider entire record**, even non-convictions and old cycles
- **No notice or hearing** is required before denying a license due to criminal record
- **Burden/standard of proof are unclear** and placed on applicant by default

Post-licensing decision:

- **Hard to appeal** most denials of a license without an attorney



Barriers in Georgia Licensed Facility Regulations

Long-Term Care Facilities:

- >210 disqualifying convictions
- Disqualification for 10 years *after* sentence completion

Childcare Facilities:

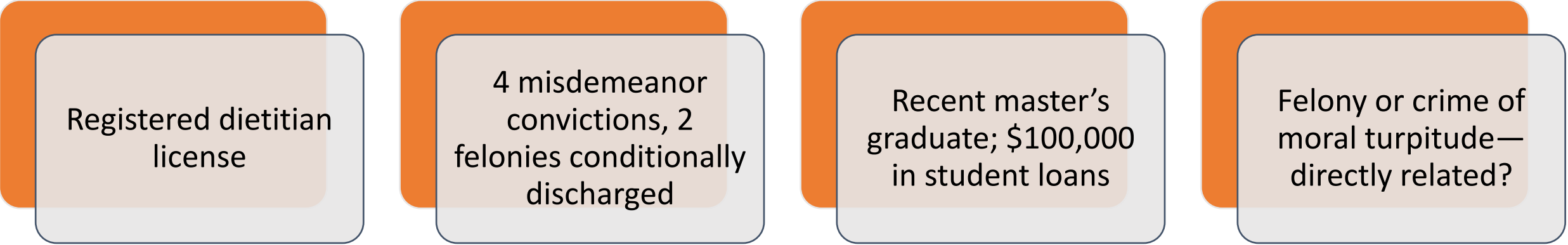
- Any felony conviction, + 17 misdemeanors
- Lifetime disqualification unless discretionary mitigation given



Real Stories of Workers Experiencing Barriers

Pre-Licensing Barriers

“W.”



Registered dietitian
license

The image displays four pre-licensing barriers for dietitians, each presented in a light gray rounded rectangle with a thin blue border. These rectangles are layered over a solid orange background. The barriers are arranged horizontally and read from left to right: 1. Registered dietitian license, 2. 4 misdemeanor convictions, 2 felonies conditionally discharged, 3. Recent master's graduate; \$100,000 in student loans, and 4. Felony or crime of moral turpitude—directly related?


4 misdemeanor
convictions, 2
felonies conditionally
discharged

Recent master's
graduate; \$100,000
in student loans

Felony or crime of
moral turpitude—
directly related?

Licensing Application Barriers

“D.”



Funeral home
director license

7 arrest cycles, all
over 15 years old

1 misdemeanor
conviction; all
other charges
dismissed

Licensed Facility Barriers

“E.”

Employment in
residential
eldercare

2 cycles: 1 First
Offender felony
forgery

19-year probation
sentence

Disqualified until
2045; no
mitigation unless
willing to appeal



What Reforms are Needed?



For Individual Licenses:

- 1) Promote Transparency and Accessibility
- 2) Limit Records Considered in Licensing Process
- 3) Increase Due Process Protections

For Employees at Licensed Facilities:

- 1) Refine List of Disqualifying Crimes
- 2) Modulate Disqualification Period Based on Specific Offense
- 3) Start Disqualification Period at Conviction

Reform for Individually Held Licenses

- Very popular in last 5 years
- 2/3 states have implemented
- Affects broad range of licensed professions, from nurses to interior designers



Promote Transparency and Accessibility

- **Provide a binding pre-licensing petition process:** Applicants can learn licensing eligibility before investing in education and training
- **Waive licensing fees:** Low-income applicants should avoid fees for licensing applications/exams
- **Publish clear guidance:** Explain guidelines about criminal records on licensing board website
- **Remove vague rules:** Get rid of “moral turpitude” language
- **Report the data:** Boards should track and publish data about licensing applications and criminal records

Recent Reforms for Transparency and Accessibility

Mississippi (2019)

- binding preliminary decision, prohibiting “moral character/turpitude” rules

Arkansas (2019)

- binding preliminary decision, no moral turpitude rules

Missouri (2020)

- binding preliminary decision

Florida (2017)

- published list of disqualifying and non-disqualifying offenses for some boards; fee waivers

Iowa (2020), Tennessee (2018), Louisiana (2021)

- fee waivers

Recent Reforms for Transparency and Accessibility

North Carolina (2019)

- binding preliminary decision, data report, no moral turpitude rules, public guidance required

Indiana (2018)

- binding preliminary decision, published list of disqualifying offenses, no moral turpitude rules

Illinois (2016/17)

- data report, no moral turpitude rules

Kentucky (2017)

- no moral turpitude rules

Limit Records Considered in Licensing Process

- **Set a time limit:** Boards cannot consider records older than [x] years
- **Only convictions count:** Boards cannot consider arrests, dismissals/acquittals, or First Offender adjudications
- **Make expungement matter:** Boards cannot consider pardoned or restricted/sealed cycles
- **Serious offenses only:** Boards can only consider recent or violent misdemeanor convictions and felony convictions
- **Remove blanket bans:** Boards cannot automatically disqualify all applicants convicted of certain offense(s)

Recent Reforms to Limit Consideration of Records

Indiana (2018)

- time limit of 5 years except sexual/violent offenses, no blanket bans, expunged offenses and arrests excluded

Illinois (2016/17)

- expunged/sealed offenses and arrests excluded

Arkansas (2019)

- expunged offenses and arrests excluded, time limit of 5 years except sexual/violent offenses

Kentucky (2017) & North Carolina (2019)

- no blanket bans

Missouri (2020)

- time limit of 4 years except sexual/violent offenses

Increase Due Process Protections

- **Require a hearing:** Require boards to hold a full hearing to deny license because of criminal record
- **Shift and heighten the burden:** Government should prove applicant is ineligible because of record “by clear and convincing evidence”
- **Explain the decision:** Boards must issue written decision with justification
- **Strengthen the right to appeal:** Permit all applicants to appeal denial easily, without a lawyer

Recent Reforms on Due Process

Mississippi (2019)

- burden of proof, right to hearing & appeal, written decision

North Carolina (2019)

- right to notice, hearing and appeal; written decision

Indiana (2018)

- burden of proof, hearing and appeal, written decision

Missouri (2020)

- notice, hearing, and appeal; written decision; burden of proof

Iowa (2020)

- notice, hearing, and appeal; written decision, burden of proof

Kentucky (2017)

- burden of proof on state except for sex offenses and class A/B felonies; right to notice, hearing and appeal

Licensing Reform for Employees at Licensed Facilities

- Quickly growing industries: childcare, eldercare, in-home and residential care
- Must account for protection of vulnerable groups
- Federal regulations involved

Reforms for Licensed Facility Background Requirements

- **Refine the list of disqualifying crimes:**
Reassess list to reflect direct relationship of offenses to employment
- **Modulate the disqualification period:**
Adjust based on severity and relatedness of the individual offense
- **Run the clock immediately:**
Begin disqualification period when sentenced, not when sentence is completed

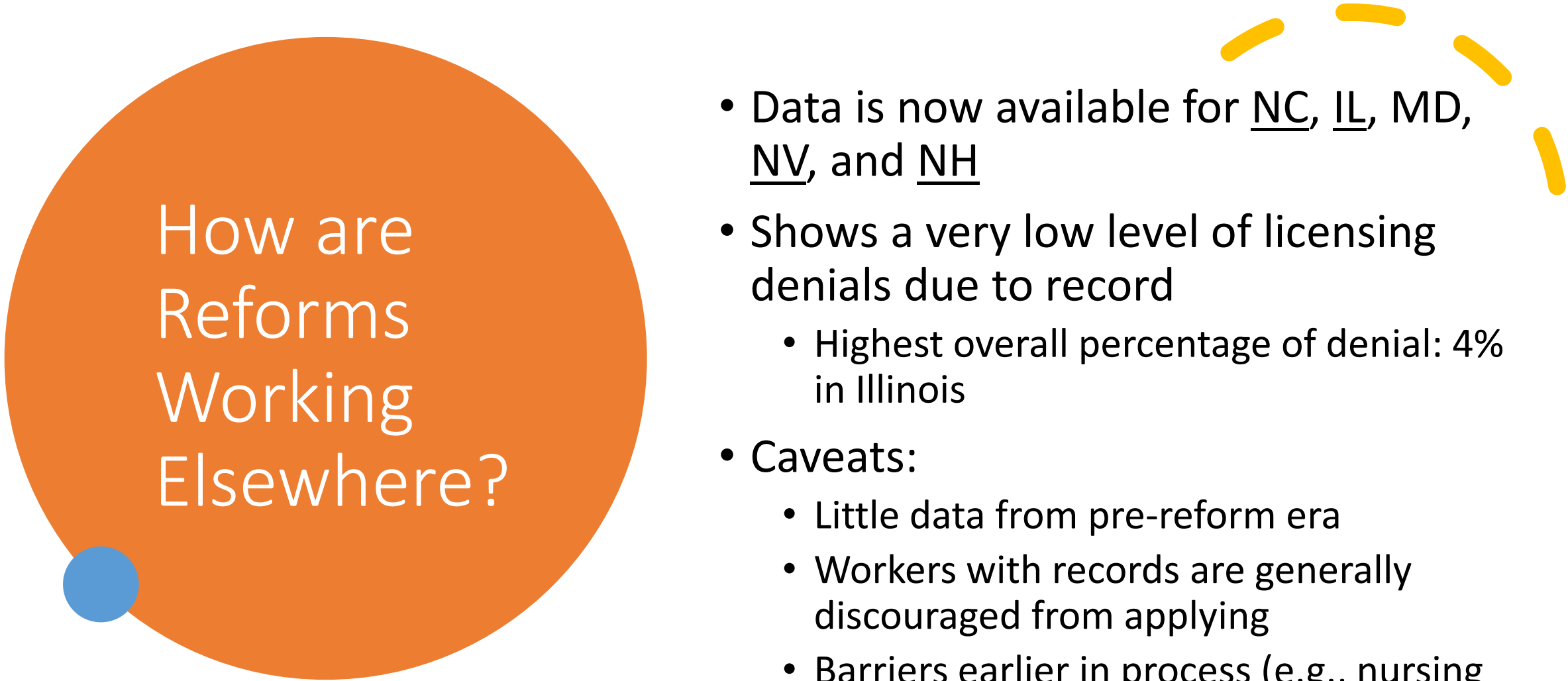
Reforms to Licensed Facility Background Checks

California

- Allows for exemptions to disqualification based on character references, program certificates, personal statement. State agency grants/denies exemption; appeal available.

Washington

- Adjusts disqualification period based on severity of offense (3-10 years)
- Begins disqualification period at conviction




How are Reforms Working Elsewhere?

- Data is now available for NC, IL, MD, NV, and NH
- Shows a very low level of licensing denials due to record
 - Highest overall percentage of denial: 4% in Illinois
- Caveats:
 - Little data from pre-reform era
 - Workers with records are generally discouraged from applying
 - Barriers earlier in process (e.g., nursing school admissions policies)

Further Reading

- Institute for Justice
 - State Occupational Licensing Reforms for Workers with Criminal Records
 - Barred From Working: Nationwide Study of Occupational Licensing Barriers for Ex-Offenders
 - Model Act on Collateral Consequences in Occupational Licensing
- National Employment Law Project
 - Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records
 - Fair Chance Licensing Reform
 - Model State Law
 - Barriers to Rapidly Growing Professions State Fact Sheets



Discussion/Questions

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