

By: Perry

S.B. No. 1714

A BILL TO BE ENTITLED

AN ACT

relating to the consequences of a criminal conviction on a person's eligibility for an occupational license.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 53.021(a), Occupations Code, is amended to read as follows:

(a) Subject to Section 53.0231, a licensing authority may not suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of an offense unless the offense is:

(1) on the list prepared by the licensing authority under Section 53.0212 and the person applies for the license before the later of the fifth anniversary of the date of:

(A) conviction; or

(B) the person's release from confinement if the person's sentence for the offense included a term of confinement [an offense that directly relates to the duties and responsibilities of the licensed occupation];

(2) ~~[an offense]~~ listed in Article 42A.054, Code of Criminal Procedure; or

(3) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

SECTION 2. Section 53.0211(b), Occupations Code, is amended

1 to read as follows:

2 (b) Notwithstanding any law other than Subsection (a) and
3 unless the applicant has been convicted of an offense described by
4 Section 53.021(a), a licensing authority shall issue to an
5 otherwise qualified applicant who has been convicted of an offense
6 [+

7 [~~(1)~~] the license for which the applicant applied [+
8 ~~or~~

9 [~~(2) a provisional license described by Subsection~~
10 ~~(c)~~].

11 SECTION 3. Subchapter B, Chapter 53, Occupations Code, is
12 amended by adding Section 53.0212 to read as follows:

13 Sec. 53.0212. LIST OF OFFENSES DIRECTLY RELATED TO
14 OCCUPATION. (a) A licensing authority shall prepare and make
15 available to the public a list of offenses:

16 (1) that directly relate to the duties and
17 responsibilities of each occupation licensed by the authority; and

18 (2) on conviction of which the licensing authority may
19 take an action described by Section 53.021(a).

20 (b) In preparing the list of offenses under Subsection (a),
21 the licensing authority:

22 (1) shall list specific offenses; and

23 (2) may not use nonspecific terms to describe
24 offenses, including the terms "moral turpitude" and "good
25 character."

26 SECTION 4. Section 53.022, Occupations Code, is amended to
27 read as follows:

1 Sec. 53.022. FACTORS IN DETERMINING WHETHER OFFENSE
2 ~~[CONVICTION]~~ DIRECTLY RELATES TO OCCUPATION. In determining
3 whether an offense ~~[a criminal conviction]~~ directly relates to the
4 duties and responsibilities of a licensed occupation, the licensing
5 authority shall consider each of the following factors:

- 6 (1) the nature and seriousness of the offense ~~[crime]~~;
- 7 (2) the relationship of the offense ~~[crime]~~ to the
8 purposes for requiring a license to engage in the occupation;
- 9 (3) the extent to which holding a license might offer
10 an opportunity to engage in further criminal activity of the same
11 type as that ~~[in which the person previously had been]~~ involved in
12 the offense;
- 13 (4) the relationship of the offense ~~[crime]~~ to the
14 ability or capacity required to perform the duties and discharge
15 the responsibilities of the licensed occupation; and
- 16 (5) any correlation between the elements of the
17 offense ~~[crime]~~ and the duties and responsibilities of the licensed
18 occupation.

19 SECTION 5. The heading to Section [53.023](#), Occupations Code,
20 is amended to read as follows:

21 Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY
22 CONSIDERATION ~~[TO CONSIDER]~~ AFTER DETERMINING OFFENSE ~~[CONVICTION]~~
23 DIRECTLY RELATES TO OCCUPATION.

24 SECTION 6. Section [53.023](#)(a), Occupations Code, is amended
25 to read as follows:

26 (a) In ~~[If a licensing authority determines under Section~~
27 [53.022](#) ~~that a criminal conviction directly relates to the duties~~

1 ~~and responsibilities of a licensed occupation, the licensing~~
2 ~~authority shall consider the following in]~~ determining whether to
3 take an action described [~~authorized~~] by Section 53.021(a) with
4 respect to a person who has been convicted of an offense that
5 appears on the list prepared under Section 53.0212, the licensing
6 authority shall consider [~~53.021~~]:

7 (1) the extent and nature of the person's past criminal
8 activity;

9 (2) the age of the person when the offense [~~crime~~] was
10 committed;

11 (3) the amount of time that has elapsed since the
12 person's last offense [~~criminal activity~~];

13 (4) the conduct and work activity of the person before
14 and after each offense the person has committed [~~criminal~~
15 ~~activity~~];

16 (5) evidence of the person's rehabilitation or
17 rehabilitative effort while incarcerated or after release;

18 (6) evidence of the person's compliance with any
19 conditions of community supervision, parole, or mandatory
20 supervision; and

21 (7) other evidence of the person's fitness, including
22 letters of recommendation.

23 SECTION 7. Section 53.025, Occupations Code, is amended by
24 amending Subsection (a) and adding Subsection (a-1) to read as
25 follows:

26 (a) Each licensing authority shall issue guidelines
27 relating to the practice of the licensing authority under this

1 chapter.

2 (a-1) The guidelines issued under this section must state:

3 (1) the reasons each offense appears on the list of
4 offenses prepared by the licensing authority under Section 53.0212;
5 ~~[a particular crime is considered to relate to a particular~~
6 ~~license] and~~

7 (2) any other criterion that affects the decisions of
8 the licensing authority regarding the consequences of a criminal
9 conviction on a person's eligibility for an occupational license.

10 SECTION 8. Subchapter B, Chapter 53, Occupations Code, is
11 amended by adding Section 53.0255 to read as follows:

12 Sec. 53.0255. PUBLICATION AND AMENDMENT OF LIST OF OFFENSES
13 AND GUIDELINES. (a) A state licensing authority shall file the
14 list of offenses prepared under Section 53.0212 and the guidelines
15 prepared under Section 53.025 with the secretary of state for
16 publication in the Texas Register.

17 (b) A local or county licensing authority shall post the
18 list of offenses prepared under Section 53.0212 and the guidelines
19 prepared under Section 53.025 at the courthouse for the county in
20 which the licensing authority is located or publish the list of
21 offenses and guidelines in a newspaper of general circulation in
22 the county.

23 (c) Amendments to the list of offenses and guidelines, if
24 any, shall be issued annually.

25 SECTION 9. Subchapter C, Chapter 53, Occupations Code, is
26 amended by adding Section 53.053 to read as follows:

27 Sec. 53.053. BURDEN OF PROOF. In a hearing on the

1 administrative appeal or judicial review of a licensing authority's
2 decision under Section 53.021(a), the licensing authority has the
3 burden of proving by clear and convincing evidence that:

4 (1) the offense for which the person was convicted
5 directly relates to the duties and responsibilities of the licensed
6 occupation; and

7 (2) after consideration of the relevant factors as
8 required by Section 53.023(a), the person lacks the fitness to
9 perform the duties and discharge the responsibilities of the
10 licensed occupation.

11 SECTION 10. Section 53.102(a), Occupations Code, is amended
12 to read as follows:

13 (a) A person may request a licensing authority to issue a
14 criminal history evaluation letter regarding the person's
15 eligibility for a license issued by that authority if the person [+
16 ~~(1) is enrolled or planning to enroll in an~~
17 ~~educational program that prepares a person for an initial license~~
18 ~~or is planning to take an examination for an initial license, and~~

19 ~~(2)]~~ has reason to believe that the person is
20 ineligible for the license due to a conviction or deferred
21 adjudication for a felony or misdemeanor offense.

22 SECTION 11. Section 53.104(c), Occupations Code, is amended
23 to read as follows:

24 (c) A licensing authority must provide notice under
25 Subsection (a) or issue a letter under Subsection (b) not later than
26 the 30th [~~90th~~] day after the date the authority receives the
27 request.

1 SECTION 12. Section 53.152(a), Occupations Code, is amended
2 to read as follows:

3 (a) An entity that provides an educational program to
4 prepare an individual for issuance of an initial occupational
5 license shall notify each applicant to and enrollee in the
6 educational program of:

7 (1) the potential ineligibility of an individual who
8 has been convicted of an offense for issuance of an occupational
9 license on completion of the educational program;

10 (2) the current list of offenses prepared under
11 Section 53.0212 and guidelines prepared [~~issued~~] under Section
12 53.025 by any licensing authority that may issue an occupational
13 license to an individual who completes the educational program; and

14 (3) [~~any other state or local restriction or guideline~~
15 ~~used by a licensing authority described by Subdivision (2) to~~
16 ~~determine the eligibility of an individual who has been convicted~~
17 ~~of an offense for an occupational license issued by the licensing~~
18 ~~authority; and~~

19 [~~4~~] the right to request a criminal history
20 evaluation letter under Section 53.102.

21 SECTION 13. Chapter 53, Occupations Code, is amended by
22 adding Subchapter F to read as follows:

23 SUBCHAPTER F. REINSTATEMENT OF SUSPENDED OR REVOKED LICENSE

24 Sec. 53.201. REINSTATEMENT OF CERTAIN LICENSES. (a) A
25 licensing authority shall reinstate a license that was suspended or
26 revoked based solely on the license holder's previous criminal
27 conviction if:

1 (1) the person applies to the licensing authority for
2 reinstatement of the license in the form and manner prescribed by
3 the licensing authority;

4 (2) the criminal conviction that was the basis of the
5 suspension or revocation of the license does not appear on the
6 current list of offenses prepared by the licensing authority under
7 Section 53.0212; and

8 (3) all other requirements for the issuance of an
9 original license by the licensing authority are satisfied.

10 (b) A licensing authority shall adopt rules as necessary to
11 implement this section.

12 SECTION 14. The following provisions of the Occupations
13 Code are repealed:

14 (1) Sections 53.021(a-1) and (b);

15 (2) Sections 53.0211(c), (d), (e), (f), and (g); and

16 (3) Sections 53.025(b), (c), and (d).

17 SECTION 15. (a) Section 53.021, Occupations Code, as
18 amended by this Act, applies only to an action taken by a licensing
19 authority to suspend or revoke a license, disqualify a person from
20 receiving a license, or deny to a person the opportunity to take a
21 licensing examination on or after January 1, 2024. An action taken
22 by a licensing authority before that date is governed by the law in
23 effect immediately before the effective date of this Act, and the
24 former law is continued in effect for that purpose.

25 (b) Section 53.053, Occupations Code, as added by this Act,
26 applies only to a proceeding commenced on or after January 1, 2024.
27 A proceeding commenced before that date is governed by the law in

1 effect immediately before the effective date of this Act, and the
2 former law is continued in effect for that purpose.

3 (c) Section 53.104(c), Occupations Code, as amended by this
4 Act, applies only to a request received by a licensing authority
5 under Subchapter D, Chapter 53, Occupations Code, as amended by
6 this Act, on or after January 1, 2024. A request received before
7 that date is governed by the law in effect immediately before the
8 effective date of this Act, and the former law is continued in
9 effect for that purpose.

10 SECTION 16. Not later than December 31, 2023, a licensing
11 authority shall file or make available the list of offenses and
12 guidelines as required by Section 53.0255, Occupations Code, as
13 added by this Act.

14 SECTION 17. This Act takes effect September 1, 2023.