

By: Seliger

S.B. No. 1424

Substitute the following for S.B. No. 1424:

By: Lewis

C.S.S.B. No. 1424

A BILL TO BE ENTITLED

AN ACT

relating to a person's eligibility to possess or carry a concealed handgun or other firearm.

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

SECTION 1. Section 411.1711, Government Code, is amended to read as follows:

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A person is not convicted, as that term is defined by Section 411.171, if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for a ~~felony level~~ felony level offense under any of the following provisions of the Texas Penal Code or a substantially similar provision under the laws of any other state: Title 5, ~~Penal Code, or Chapter 29, Penal Code~~ Chapter 29, Sections 25.07, or 30.02 (burglary of habitation only) or

(2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

(3) "Concealed handgun" means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

(4) "Convicted" means an adjudication of guilt or,

1 except as provided in Section 411.1711, an order of deferred
2 adjudication entered against a person by a court of competent
3 jurisdiction whether or not the imposition of the sentence is
4 subsequently probated and the person is discharged from community
5 supervision. The term does not include an adjudication of guilt or
6 an order of deferred adjudication that has been subsequently:

7 (A) expunged; [~~or~~]

8 (B) pardoned under the authority of a state or
9 federal official; or

10 (C) otherwise vacated, set aside, annulled,
11 invalidated, voided, or sealed under any state or federal law.

12 SECTION 2. Sections 411.172, Government Code, is amended to
13 read as follows:

14 (a) A person is eligible for a license to carry a concealed
15 handgun if the person:

16 (1) is a legal resident of this state for the six-month
17 period preceding the date of application under this subchapter or
18 is otherwise eligible for a license under Section 411.173(a);

19 (2) is at least 21 years of age;

20 (3) has not been convicted of a felony;

21 (4) is not charged with the commission of a Class A or
22 Class B misdemeanor or an offense under Section 42.01, Penal Code,
23 or of a felony under an information or indictment;

24 (5) is not a fugitive from justice for a felony or a
25 Class A or Class B misdemeanor;

26 (6) is not a chemically dependent person;

27 (7) is not incapable of exercising sound judgment with

1 respect to the proper use and storage of a handgun;

2 (8) has not, in the five years preceding the date of
3 application, been convicted of a Class A or Class B misdemeanor or
4 an offense under Section 42.01, Penal Code (or an equivalent
5 provision in another state);

6 (9) is fully qualified under applicable federal and
7 state law to purchase a handgun;

8 (10) has not been finally determined to be delinquent
9 in making a child support payment administered or collected by the
10 attorney general;

11 ~~[(11) has not been finally determined to be delinquent~~
12 ~~in the payment of a tax or other money collected by the comptroller,~~
13 ~~the tax collector of a political subdivision of the state, or any~~
14 ~~agency or subdivision of the state;~~

15 ~~[(12) has not been finally determined to be in default~~
16 ~~on a loan made under Chapter 57, Education Code;]~~

17 (11) ~~[(13)]~~ is not currently restricted under a court
18 protective order or subject to a restraining order affecting the
19 spousal relationship, other than a restraining order solely
20 affecting property interests;

21 (12) ~~[(14)]~~ has not, in the 10 years preceding the
22 date of application, been adjudicated as having engaged in
23 delinquent conduct violating a penal law of the grade of felony; and

24 (13) ~~[(15)]~~ has not made any material
25 misrepresentation, or failed to disclose any material fact, in an
26 application submitted pursuant to Section 411.174 ~~[or in a request~~
27 ~~for application submitted pursuant to Section 411.175]~~.

1 (b) For the purposes of this section, an offense under the
2 laws of this state, another state, or the United States is:

3 (1) except as provided by Subsection (b-1), a felony
4 if [~~the offense~~], at the time it is committed, the offense [~~of a~~
5 ~~person's application for a license to carry a concealed handgun~~]:

6 (A) is designated by a law of this state as a
7 felony;

8 (B) contains all the elements of an offense
9 designated by a law of this state as a felony; or

10 (C) is punishable by confinement for one year or
11 more in a penitentiary; and

12 (2) a Class A misdemeanor if the offense is not a
13 felony and confinement in a jail other than a state jail felony
14 facility is affixed as a possible punishment.

15 (b-1) An offense is not considered a felony for purposes of
16 Subsection (b)(1) if, at the time of a person's application for a
17 license to carry a concealed handgun, the offense:

18 (1) is designated by a law of this state as a
19 misdemeanor; or

20 (2) does not contain all the elements of any offense
21 designated by a law of this state as a felony.

22 (c) An individual who has been convicted two times within
23 the 10-year period preceding the date on which the person applies
24 for a license of an offense of the grade of Class B misdemeanor or
25 greater that involves the use of alcohol or a controlled substance
26 as a statutory element of the offense is a chemically dependent
27 person for purposes of this section and is not qualified to receive

1 a license under this subchapter. This subsection does not preclude
2 the disqualification of an individual for being a chemically
3 dependent person if other evidence exists to show that the person is
4 a chemically dependent person.

5 (d) For purposes of Subsection (a)(7), a person is incapable
6 of exercising sound judgment with respect to the proper use and
7 storage of a handgun if the person:

8 (1) has been diagnosed by a licensed physician as
9 suffering from a psychiatric disorder or condition that causes or
10 is likely to cause substantial impairment in judgment, mood,
11 perception, impulse control, or intellectual ability;

12 (2) suffers from a psychiatric disorder or condition
13 described by Subdivision (1) that:

14 (A) is in remission but is reasonably likely to
15 redevelop at a future time; or

16 (B) requires continuous medical treatment to
17 avoid redevelopment;

18 (3) has been diagnosed by a licensed physician,
19 determined by a review board or similar authority, or declared by a
20 court to be incompetent to manage the person's own affairs; or

21 (4) has entered in a criminal proceeding a plea of not
22 guilty by reason of insanity.

23 (e) The following constitutes evidence that a person has a
24 psychiatric disorder or condition described by Subsection (d)(1):

25 (1) involuntary psychiatric hospitalization [~~in the~~
26 ~~preceding five-year period~~];

27 (2) psychiatric hospitalization [~~in the preceding~~

1 ~~two year period~~];

2 (3) inpatient or residential substance abuse
3 treatment in the preceding five-year period;

4 (4) diagnosis in the preceding five-year period by a
5 licensed physician that the person is dependent on alcohol, a
6 controlled substance, or a similar substance; or

7 (5) diagnosis at any time by a licensed physician that
8 the person suffers or has suffered from a psychiatric disorder or
9 condition consisting of or relating to:

10 (A) schizophrenia or delusional disorder;

11 (B) bipolar disorder;

12 (C) chronic dementia, whether caused by illness,
13 brain defect, or brain injury;

14 (D) dissociative identity disorder;

15 (E) intermittent explosive disorder; or

16 (F) antisocial personality disorder.

17 SECTION 3. Sections 411.174(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) An applicant for a license to carry a concealed handgun
20 must submit to the director's designee described by Section
21 411.176:

22 (1) a completed application on a form provided by the
23 department that requires only the information listed in Subsection
24 (b);

25 (2) one or more [~~two recent color passport~~]
26 photographs of the applicant that meet the requirements of the
27 department [~~, except that an applicant who is younger than 21 years~~

1 ~~of age must submit two recent color passport photographs in profile~~
2 ~~of the applicant];~~

3 (3) a certified copy of the applicant's birth
4 certificate or certified proof of age;

5 (4) proof of residency in this state;

6 (5) two complete sets of legible and classifiable
7 fingerprints of the applicant taken by a person appropriately
8 trained in recording fingerprints who is employed by a law
9 enforcement agency or by a private entity designated by a law
10 enforcement agency as an entity qualified to take fingerprints of
11 an applicant for a license under this subchapter;

12 (6) a nonrefundable application and license fee of
13 \$140 paid to the department;

14 (7) evidence of [a] handgun proficiency, in the form
15 and manner required by the department [~~certificate described by~~
16 ~~Section 411.189~~];

17 (8) an affidavit signed by the applicant stating that
18 the applicant:

19 (A) has read and understands each provision of
20 this subchapter that creates an offense under the laws of this state
21 and each provision of the laws of this state related to use of
22 deadly force; and

23 (B) fulfills all the eligibility requirements
24 listed under Section 411.172; and

25 (9) a form executed by the applicant that authorizes
26 the director to make an inquiry into any noncriminal history
27 records that are necessary to determine the applicant's eligibility

1 for a license under Section 411.172(a).

2 (b) An applicant must provide on the application a statement
3 of the applicant's:

4 (1) full name and place and date of birth;

5 (2) race and sex;

6 (3) residence and business addresses for the preceding
7 five years;

8 (4) hair and eye color;

9 (5) height and weight;

10 (6) driver's license number or identification
11 certificate number issued by the department;

12 (7) criminal history record information of the type
13 maintained by the department under this chapter, including a list
14 of offenses for which the applicant was arrested, charged, or under
15 an information or indictment and the disposition of the offenses;
16 and

17 (8) history [~~during the preceding five years~~], if any,
18 of treatment received by, commitment to, or residence in:

19 (A) a drug or alcohol treatment center licensed
20 to provide drug or alcohol treatment under the laws of this state or
21 another state, but only if the treatment, commitment, or residence
22 occurred during the preceding five years; or

23 (B) a psychiatric hospital.

24 SECTION 4. Section 411.176, Government Code, is amended to
25 read as follows:

26 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
27 receipt of [~~the~~] application materials by the department at its

1 Austin headquarters, the department shall conduct the appropriate
2 criminal history record check of the applicant through its
3 computerized criminal history system. Not later than the 30th day
4 after the date the department receives the application materials,
5 the department shall forward the materials to the director's
6 designee in the geographical area of the applicant's residence so
7 that the designee may conduct the investigation described by
8 Subsection (b). For purposes of this section, the director's
9 designee may be a noncommissioned employee of the department.

10 (b) The director's designee as needed shall conduct an
11 additional criminal history record check of the applicant and an
12 investigation of the applicant's local official records to verify
13 the accuracy of the application materials. The director's designee
14 may access any records necessary for purposes of this subsection.
15 The scope of the record check and the investigation are at the sole
16 discretion of the department, except that the director's designee
17 shall complete the record check and investigation not later than
18 the 60th day after the date the department receives the application
19 materials. The department shall send a fingerprint card to the
20 Federal Bureau of Investigation for a national criminal history
21 check of the applicant. On completion of the investigation, the
22 director's designee shall return all materials and the result of
23 the investigation to the appropriate division of the department at
24 its Austin headquarters.

25 (c) The director's designee may submit to the appropriate
26 division of the department, at the department's Austin
27 headquarters, along with the application materials a written

1 recommendation for disapproval of the application, accompanied by
2 an affidavit stating personal knowledge or naming persons with
3 personal knowledge of a ground for denial under Section 411.172.
4 The director's designee [~~in the appropriate geographical area~~] may
5 also submit the application and the recommendation that the license
6 be issued.

7 (d) On receipt at the department's Austin headquarters of
8 the application materials and the result of the investigation by
9 the director's designee, the department shall conduct any further
10 record check or investigation the department determines is
11 necessary if a question exists with respect to the accuracy of the
12 application materials or the eligibility of the applicant, except
13 that the department shall complete the record check and
14 investigation not later than the 180th day after the date the
15 department receives the application materials from the applicant.

16 SECTION 5. Sections 411.177(a) and (b), Government Code,
17 are amended to read as follows:

18 (a) The department shall issue a license to carry a
19 concealed handgun to an applicant if the applicant meets all the
20 eligibility requirements and submits all the application
21 materials. The department may issue a license to carry handguns
22 only of the categories for which the applicant has demonstrated
23 proficiency in the form and manner required by the department
24 [~~indicated on the applicant's certificate of proficiency issued~~
25 ~~under Section 411.189~~]. The department shall administer the
26 licensing procedures in good faith so that any applicant who meets
27 all the eligibility requirements and submits all the application

1 materials shall receive a license. The department may not deny an
2 application on the basis of a capricious or arbitrary decision by
3 the department.

4 (b) The department shall, not later than the 60th day after
5 the date of the receipt by the director's designee of the completed
6 application materials:

7 (1) issue the license;

8 (2) notify the applicant in writing that the
9 application was denied:

10 (A) on the grounds that the applicant failed to
11 qualify under the criteria listed in Section 411.172;

12 (B) based on the affidavit of the director's
13 designee submitted to the department under Section 411.176(c)
14 [~~411.176(b)~~]; or

15 (C) based on the affidavit of the qualified
16 handgun instructor submitted to the department under Section
17 411.188(j) [~~411.189(e)~~]; or

18 (3) notify the applicant in writing that the
19 department is unable to make a determination regarding the issuance
20 or denial of a license to the applicant within the 60-day period
21 prescribed by this subsection and include in that notification an
22 explanation of the reason for the inability and an estimation of the
23 amount of time the department will need to make the determination.

24 SECTION 6. Section 411.184(a), Government Code, is amended
25 to read as follows:

26 (a) To modify a license to allow a license holder to carry a
27 handgun of a different category than the license indicates, the

1 license holder must:

2 (1) complete a proficiency examination as provided by
3 Section 411.188(e);

4 [~~(2) obtain a handgun proficiency certificate under~~
5 ~~Section 411.189 not more than six months before the date of~~
6 ~~application for a modified license;~~] and

7 (2) [~~(3)~~] submit to the department:

8 (A) an application for a modified license on a
9 form provided by the department;

10 (B) evidence of [~~a copy of the~~] handgun
11 proficiency, in the form and manner required by the department
12 [~~certificate~~];

13 (C) payment of a modified license fee of \$25; and

14 (D) one or more [~~two recent color passport~~]
15 photographs of the license holder that meet the requirements of the
16 department [~~, except that an applicant who is younger than 21 years~~
17 ~~of age must submit two recent color passport photographs in profile~~
18 ~~of the applicant)].~~

19 SECTION 7. Section 411.185(a), Government Code, is amended
20 to read as follows:

21 (a) To renew a license, a license holder must:

22 (1) complete a continuing education course in handgun
23 proficiency under Section 411.188(c) within the six-month period
24 preceding:

25 (A) the date of application for renewal, for a
26 first or second renewal; and

27 (B) the date of application for renewal or the

1 date of application for the preceding renewal, for a third or
2 subsequent renewal, to ensure that the license holder is not
3 required to complete the course more than once in any 10-year
4 period;

5 ~~[(2) obtain a handgun proficiency certificate under~~
6 ~~Section 411.189 within the six-month period preceding:~~

7 ~~[(A) the date of application for renewal, for a~~
8 ~~first or second renewal; and~~

9 ~~[(B) the date of application for renewal or the~~
10 ~~date of application for the preceding renewal, for a third or~~
11 ~~subsequent renewal, to ensure that the license holder is not~~
12 ~~required to obtain the certificate more than once in any 10-year~~
13 ~~period,] and~~

14 (2) ~~[(3)]~~ submit to the department:

15 (A) an application for renewal on a form provided
16 by the department;

17 (B) evidence of ~~[a copy of the]~~ handgun
18 proficiency, in the form and manner required by the department
19 ~~[certificate];~~

20 (C) payment of a nonrefundable renewal fee as set
21 by the department; and

22 (D) one or more ~~[two recent color passport]~~
23 photographs of the applicant that meet the requirements of the
24 department.

25 SECTION 8. Section 411.186(a), Government Code, is amended
26 to read as follows:

27 (a) The department shall revoke a ~~[A]~~ license ~~[may be~~

1 ~~revoked~~] under this section if the license holder:

2 (1) was not entitled to the license at the time it was
3 issued;

4 (2) [~~gave false information on the application~~] made a
5 material misrepresentation or failed to disclose a material fact on
6 an application submitted under this subchapter;

7 (3) subsequently becomes ineligible for a license
8 under Section 411.172, unless the sole basis for the ineligibility
9 is that the license holder is charged with the commission of a Class
10 A or Class B misdemeanor or an offense under Section 42.01, Penal
11 Code, or of a felony under an information or indictment;

12 (4) is convicted of an offense under Section 46.035,
13 Penal Code;

14 (5) is determined by the department to have engaged in
15 conduct constituting a reason to suspend a license listed in
16 Section 411.187(a) after the person's license has been previously
17 suspended twice for the same reason; or

18 (6) submits an application fee that is dishonored or
19 reversed, and the applicant fails to submit a cashier's check or
20 money order made payable to the "Texas Department of Public Safety"
21 in the amount of the dishonored application fee, plus \$25, within
22 thirty days of being notified by the department that the
23 application fee had been dishonored or reversed.

24 SECTION 9. Sections 411.187(a) and (c), Government Code,
25 are amended to read as follows:

26 (a) The department shall suspend a [A] license [~~may be~~
27 ~~suspended~~] under this section if the license holder:

1 (1) is charged with the commission of a Class A or
2 Class B misdemeanor or an offense under Section 42.01, Penal Code,
3 or of a felony under an information or indictment;

4 (2) fails to display a license as required by Section
5 411.205;

6 (3) fails to notify the department of a change of
7 address or name as required by Section 411.181;

8 (4) carries a concealed handgun under the authority of
9 this subchapter of a different category than the license holder is
10 licensed to carry;

11 (5) fails to return a previously issued license after
12 a license is modified as required by Section 411.184(d);

13 (6) commits an act of family violence and is the
14 subject of an active protective order rendered under Title 4,
15 Family Code; or

16 (7) is arrested for an offense involving family
17 violence or an offense under Section 42.072, Penal Code, and is the
18 subject of an order for emergency protection issued under Article
19 17.292, Code of Criminal Procedure.

20 (c) The department shall suspend a [A] license [~~may be~~
21 ~~suspended~~] under this section:

22 (1) for 30 days, if the person's license is subject to
23 suspension for a reason listed in Subsection (a)(3), (4), or (5),
24 except as provided by Subdivision (3);

25 (2) for 90 days, if the person's license is subject to
26 suspension for a reason listed in Subsection (a)(2), except as
27 provided by Subdivision (3);

1 (3) for not less than one year and not more than three
2 years, if the person's license:

3 (A) is subject to suspension for a reason listed
4 in Subsection (a), other than the reason listed in Subsection
5 (a)(1); ~~and~~

6 (B) ~~[the person's license]~~ has been previously
7 suspended for the same reason;

8 (4) until dismissal of the charges, if the person's
9 license is subject to suspension for the reason listed in
10 Subsection (a)(1); or

11 (5) for the duration of or the period specified by:

12 (A) the protective order issued under Title 4,
13 Family Code, if the person's license is subject to suspension for
14 the reason listed in Subsection (a)(6); or

15 (B) the order for emergency protection issued
16 under Article 17.292, Code of Criminal Procedure, if the person's
17 license is subject to suspension for the reason listed in
18 Subsection (a)(7).

19 SECTION 10. Section 411.188, Government Code, is amended by
20 amending Subsections (a), (g), (h), and (i) and adding Subsection
21 (j) to read as follows:

22 (a) The director by rule shall establish minimum standards
23 for handgun proficiency and shall develop a course to teach handgun
24 proficiency and examinations to measure handgun proficiency. The
25 course to teach handgun proficiency must contain training sessions
26 divided into two parts. One part of the course must be classroom
27 instruction and the other part must be range instruction and an

1 actual demonstration by the applicant of the applicant's ability to
2 safely and proficiently use the applicable category of handgun [~~for~~
3 ~~which the applicant seeks certification~~]. An applicant must be
4 able to demonstrate [~~may not be certified unless the applicant~~
5 ~~demonstrates~~], at a minimum, the degree of proficiency that is
6 required to effectively operate a handgun of .32 caliber or above.
7 The department shall distribute the standards, course
8 requirements, and examinations on request to any qualified handgun
9 instructor.

10 (g) A person who wishes to obtain or renew a license to carry
11 a concealed handgun must apply in person to a qualified handgun
12 instructor to take the appropriate course in handgun proficiency
13 and[~~7~~] demonstrate handgun proficiency as required by the
14 department[~~7, and obtain a handgun proficiency certificate as~~
15 ~~described by Section 411.189~~].

16 (h) A license holder who wishes to modify a license to allow
17 the license holder to carry a handgun of a different category than
18 the license indicates must apply in person to a qualified handgun
19 instructor to demonstrate the required knowledge and proficiency
20 [~~to obtain a handgun proficiency certificate~~] in that category [~~as~~
21 ~~described by Section 411.189~~].

22 (i) A certified firearms instructor of the department may
23 monitor any class or training presented by a qualified handgun
24 instructor. A qualified handgun instructor shall cooperate with
25 the department in the department's efforts to monitor the
26 presentation of training by the qualified handgun instructor. A
27 qualified handgun instructor shall make available for inspection to

1 the department any and all records maintained by a qualified
2 handgun instructor under this subchapter. The qualified handgun
3 instructor shall keep a record of all [~~certificates of handgun~~
4 ~~proficiency issued by the qualified handgun instructor and other~~]
5 information required by department rule.

6 (j) A qualified handgun instructor may submit to the
7 department a written recommendation for disapproval of the
8 application for a license, renewal, or modification of a license,
9 accompanied by an affidavit stating personal knowledge or naming
10 persons with personal knowledge of facts that lead the instructor
11 to believe that an applicant does not possess the required handgun
12 proficiency. The department may use a written recommendation
13 submitted under this subsection as the basis for denial of a license
14 only if the department determines that the recommendation is made
15 in good faith and is supported by a preponderance of the evidence.
16 The department shall make a determination under this subsection not
17 later than the 45th day after the date the department receives the
18 written recommendation. The 60-day period in which the department
19 must take action under Section 411.177(b) is extended one day for
20 each day a determination is pending under this subsection.

21 SECTION 11. Section 411.1882, Government Code, is amended
22 to read as follows:

23 Sec. 411.1882. [~~EXEMPTION FROM~~] EVIDENCE OF HANDGUN
24 [~~CERTIFICATE REQUIREMENT~~] PROFICIENCY FOR CERTAIN PERSONS. [~~(a)~~
25 ~~Notwithstanding any other provision of this subchapter, a person~~
26 ~~may not be required to submit to the department a handgun~~
27 ~~proficiency certificate to obtain or renew a concealed handgun~~

1 ~~license issued under this subchapter if:~~

2 ~~[(1) the person is currently serving in this state as:~~

3 ~~[(A) a judge or justice of a federal court,~~

4 ~~[(B) an active judicial officer, as defined by~~
5 ~~Section 411.201, Government Code; or~~

6 ~~[(C) a district attorney, assistant district~~
7 ~~attorney, criminal district attorney, assistant criminal district~~
8 ~~attorney, county attorney, or assistant county attorney; and~~

9 ~~[(2) a handgun proficiency instructor approved by the~~
10 ~~Commission on Law Enforcement Officer Standards and Education for~~
11 ~~purposes of Section 1702.1675, Occupations Code, makes a sworn~~
12 ~~statement indicating that the person demonstrated proficiency to~~
13 ~~the instructor in the use of handguns during the 12-month period~~
14 ~~preceding the date of the person's application to the department~~
15 ~~and designating the types of handguns with which the person~~
16 ~~demonstrated proficiency.]~~

17 (a) A person who is currently serving in this state as a
18 judge or justice of a federal court; an active judicial officer, as
19 defined by Section 411.201, Government Code; or a district
20 attorney, assistant district attorney, criminal district attorney,
21 assistant criminal district attorney, county attorney, or
22 assistant county attorney; may establish handgun proficiency for
23 the purpose of this Chapter by obtaining a sworn statement from a
24 handgun proficiency instructor approved by the Commission on Law
25 Enforcement Officer Standards and Education for purposes of Section
26 1702.1675, Occupations Code, indicating that the person
27 demonstrated proficiency to the instructor in the use of handguns

1 during the 12-month period preceding the date of the person's
2 application to the department and designating the types of handguns
3 with which the person demonstrated proficiency.

4 (b) The director by rule shall adopt a procedure by which a
5 person [~~who is exempt under~~] described in Subsection (a) [~~from the~~
6 ~~handgun proficiency certificate requirement~~] may submit a form
7 demonstrating the person's qualification for an exemption under
8 that subsection. The form must provide sufficient information to
9 allow the department to verify whether the person qualifies for the
10 exemption.

11 (c) A license issued under this section automatically
12 expires on the six-month anniversary of the date the person's
13 status under Subsection (a) becomes inapplicable. A license that
14 expires under this subsection may be renewed under Section 411.185.

15 SECTION 12. Section 411.190, Government Code, is amended by
16 adding Subsection (d-1) to read as follows:

17 (d-1) The department shall ensure that an applicant may
18 renew certification under Subsection (d) from any county in this
19 state by using an online format to complete the required retraining
20 courses if:

21 (1) the applicant is renewing certification for the
22 first time; or

23 (2) the applicant completed the required retraining
24 courses in person the previous time the applicant renewed the
25 certificate.

26 SECTION 13. Section 411.192, Government Code, is amended to
27 read as follows:

1 Sec. 411.192. CONFIDENTIALITY OF RECORDS. (a) The
2 department shall disclose to a criminal justice agency information
3 contained in its files and records regarding whether a named
4 individual or any individual named in a specified list is licensed
5 under this subchapter. Information on an individual subject to
6 disclosure under this section includes the individual's name, date
7 of birth, gender, race, ~~[and]~~ zip code, phone number, email, and
8 website address. Except as otherwise provided by this section and
9 by Section 411.193, all other records maintained under this
10 subchapter are confidential and are not subject to mandatory
11 disclosure under the open records law, Chapter 552.

12 (b) An applicant or license holder may be furnished a copy
13 of disclosable records regarding the applicant or license holder on
14 request and the payment of a reasonable fee.

15 (c) The department shall notify a license holder of any
16 request that is made for information relating to the license holder
17 under this section and provide the name of the agency making the
18 request.

19 (d) ~~[This section does not prohibit t]~~The department ~~[from]~~
20 shall make~~[ing]~~ and distribute~~[ing]~~ to the public at no cost~~[7]~~
21 lists of individuals who are certified as qualified handgun
22 instructors by the department. This list of certified handgun
23 instructors shall include the individual's name, phone number,
24 email, and website, and be made available on the department's
25 website on or before June 1, 2010.

26 (e) If an individual whose information is subject to
27 disclosure under Section 411.192(d) submits a written request to

1 the department that all or part of his or her information not be
2 made available to the public, the department shall remove that
3 individual's information from the list, in all or part as
4 requested.

5 SECTION 14. Sections 411.199(a) and (e), Government Code,
6 are amended to read as follows:

7 (a) A person who is licensed as a peace officer under
8 Chapter 1701, Occupations Code, [415] and who has been employed
9 full-time as a peace officer by a law enforcement agency may apply
10 for a license under this subchapter at any time after retirement.

11 (e) A retired peace officer who obtains a license under this
12 subchapter must maintain, for the category of weapon licensed, the
13 proficiency required for a peace officer under Section 1701.355,
14 Occupations Code [415.035]. The department or a local law
15 enforcement agency shall allow a retired peace officer of the
16 department or agency an opportunity to annually demonstrate the
17 required proficiency. The proficiency shall be reported to the
18 department on application and renewal.

19 SECTION 15. Section 411.1991(a), Government Code, is
20 amended to read as follows:

21 (a) A person who is licensed as a peace officer under
22 Chapter 1701, Occupations Code, [415] and is employed full-time as
23 a peace officer by a law enforcement agency may apply for a license
24 under this subchapter. The person shall submit to the department
25 two complete sets of legible and classifiable fingerprints and a
26 sworn statement of the head of the law enforcement agency employing
27 the applicant. A head of a law enforcement agency may not refuse to

1 issue a statement under this subsection. If the applicant alleges
2 that the statement is untrue, the department shall investigate the
3 validity of the statement. The statement must include:

4 (1) the name and rank of the applicant;

5 (2) whether the applicant has been accused of
6 misconduct at any time during the applicant's period of employment
7 with the agency and the disposition of that accusation;

8 (3) a description of the physical and mental condition
9 of the applicant;

10 (4) a list of the types of weapons the applicant has
11 demonstrated proficiency with during the preceding year; and

12 (5) a recommendation from the agency head that a
13 license be issued to the person under this subchapter.

14 SECTION 16. Sections 411.201(c) and (d), Government Code,
15 are amended to read as follows:

16 (c) An active judicial officer is eligible for a license to
17 carry a concealed handgun under the authority of this subchapter. A
18 retired judicial officer is eligible for a license to carry a
19 concealed handgun under the authority of this subchapter if the
20 officer:

21 (1) has not been convicted of a felony;

22 (2) has not, in the five years preceding the date of
23 application, been convicted of a Class A or Class B misdemeanor;

24 (3) is not charged with the commission of a Class A or
25 Class B misdemeanor or of a felony under an information or
26 indictment;

27 (4) is not a chemically dependent person; and

1 (5) is not a person of unsound mind.

2 (d) An applicant for a license who is an active or retired
3 judicial officer must submit to the department:

4 (1) a completed application, including all required
5 affidavits, on a form prescribed by the department;

6 (2) one or more [~~two recent color passport~~]
7 photographs of the applicant that meet the requirements of the
8 department;

9 (3) two complete sets of legible and classifiable
10 fingerprints of the applicant, including one set taken by a person
11 employed by a law enforcement agency who is appropriately trained
12 in recording fingerprints;

13 (4) evidence of [a] handgun proficiency, in the form
14 and manner required by the department for an applicant under this
15 section [~~certificate issued to the applicant as evidence that the~~
16 ~~applicant successfully completed the proficiency requirements of~~
17 ~~this subchapter~~];

18 (5) [~~4~~] a nonrefundable application and license fee
19 set by the department in an amount reasonably designed to cover the
20 administrative costs associated with issuance of a license to carry
21 a concealed handgun under this subchapter; and

22 (6) [~~5~~] if the applicant is a retired judicial
23 officer, [~~+~~

24 [~~(A) two complete sets of legible and~~
25 ~~classifiable fingerprints of the applicant taken by a person~~
26 ~~employed by a law enforcement agency who is appropriately trained~~
27 ~~in recording fingerprints~~; and

1 ~~(B)~~] a form executed by the applicant that
2 authorizes the department to make an inquiry into any noncriminal
3 history records that are necessary to determine the applicant's
4 eligibility for a license under this subchapter.

5 SECTION 17. Section 411.208, Government Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) The immunities granted under Subsection (a) to a
8 qualified handgun instructor do not apply to a cause of action for
9 fraud or a deceptive trade practice.

10 SECTION 18. Article 17.292(1), Code of Criminal Procedure,
11 is amended to read as follows:

12 (1) In the order for emergency protection, the magistrate
13 shall ~~may~~ suspend a license to carry a concealed handgun issued
14 under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code,
15 that is held by the defendant.

16 SECTION 19. Section 57.481(c), Education Code, is amended
17 to read as follows:

18 ~~[(c) The corporation shall maintain a system of~~
19 ~~communication among the appropriate state agencies and entities to~~
20 ~~reduce loan default claims.]~~

21 SECTION 20. Section 85.022(d), Family Code, is amended to
22 read as follows:

23 (d) In a protective order, the court shall ~~may~~ suspend a
24 license to carry a concealed handgun issued under Subchapter H,
25 Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by a
26 person found to have committed family violence.

27 SECTION 21. Section 12.095(e), Health and Safety Code, is

1 amended to read as follows:

2 (e) The panel may require the applicant or license holder to
3 undergo a medical or other examination at the applicant's or
4 holder's expense. A person who conducts an examination under this
5 subsection may be compelled to testify before the panel and in any
6 subsequent proceedings under Subchapter H, Chapter 411, Government
7 Code, or Subchapter N, Chapter 521, Transportation Code, as
8 applicable, concerning the person's observations and findings.

9 SECTION 22. Section 12.097(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) In a subsequent proceeding under Subchapter H, Chapter
12 411, Government Code, or Subchapter N, Chapter 521, Transportation
13 Code, the medical standards division may provide a copy of the
14 report of the medical advisory board or panel and a medical record
15 or report relating to an applicant or license holder to:

- 16 (1) the Department of Public Safety of the State of
17 Texas;
- 18 (2) the applicant or license holder; and
- 19 (3) the officer who presides at the hearing.

20 SECTION 23. Section 46.04, Penal Code, is amended by adding
21 Subsections (f) and (g) to read as follows:

22 (f) For the purposes of this section, an offense under the
23 laws of this state, another state, or the United States is, except
24 as provided by Subsection (g), a felony if, at the time it is
25 committed, the offense:

- 26 (1) is designated by a law of this state as a felony;
- 27 (2) contains all the elements of an offense designated

1 by a law of this state as a felony; or

2 (3) is punishable by confinement for one year or more
3 in a penitentiary.

4 (g) An offense is not considered a felony for purposes of
5 Subsection (f) if, at the time the person possesses a firearm, the
6 offense:

7 (1) is designated by a law of this state as a
8 misdemeanor; or

9 (2) does not contain all the elements of any offense
10 designated by a law of this state as a felony.

11 SECTION 24. Sections 411.175 and 411.189, Government Code,
12 are repealed.

13 SECTION 25. The changes in law made by Sections 411.1711,
14 411.172, and 411.201(c), Government Code, as amended by this Act,
15 as amended by this Act, apply only to the eligibility of a person
16 for the issuance, modification, or renewal of a license, the
17 application for which is made on or after the effective date of this
18 Act. A holder of a license that was issued, modified, or renewed
19 before the effective date of this Act is not disqualified from
20 holding that license solely by reason of this Act.

21 SECTION 26. The changes in law made by Sections 411.174,
22 411.176, 411.177, 411.184, 411.185, 411.188, and 411.201(d),
23 Government Code, as amended by this Act, and by the repeal of
24 Sections 411.175 and 411.189, Government Code, apply only to an
25 application for the issuance, modification, or renewal of a license
26 that is submitted to the Department of Public Safety on or after the
27 effective date of this Act. An application submitted before the

1 effective date of this Act is governed by the law in effect when the
2 application was submitted, and the former law is continued in
3 effect for that purpose.

4 SECTION 27. The changes in law made by this Act to Sections
5 411.186 and 411.187, Government Code, Article 17.292, Code of
6 Criminal Procedure, and Section 85.022, Family Code, apply only to
7 an administrative or judicial determination concerning the
8 revocation or suspension of a license to carry a concealed handgun
9 that is made on or after the effective date of this Act. An
10 administrative or judicial determination made before the effective
11 date of this Act is covered by the law in effect when the
12 determination was made, and the former law is continued in effect
13 for that purpose.

14 SECTION 28. The change in law made by Section 411.208,
15 Government Code, as amended by this Act, applies only to a cause of
16 action that accrues on or after the effective date of this Act. A
17 cause of action that accrued before the effective date of this Act
18 is governed by the law in effect immediately before the effective
19 date of this Act, and the former law is continued in effect for that
20 purpose.

21 SECTION 29. The changes in law made by this Act in amending
22 Sections 411.171 and 411.172, Government Code, apply only to the
23 eligibility of a person for the issuance, modification, or renewal
24 of a license, the application for which is made on or after the
25 effective date of this Act. A holder of a license that was issued,
26 modified, or renewed before the effective date of this Act is not
27 disqualified from holding that license solely by reason of this

1 Act.

2 SECTION 30. The change in law made by this Act in amending
3 Section 46.04, Penal Code, applies only to an offense committed on
4 or after the effective date of this Act. An offense committed before
5 the effective date of this Act is covered by the law in effect when
6 the offense was committed, and the former law is continued in effect
7 for that purpose. For purposes of this section, an offense was
8 committed before the effective date of this Act if any element of
9 the offense occurred before that date.

10 SECTION 31. This Act takes effect September 1, 2009.