

By: Hinojosa

S.B. No. 523

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. Subchapter A, Chapter 53, Occupations Code, is amended by adding Section 53.003 to read as follows:

Sec. 53.003. LEGISLATIVE INTENT; LIBERAL CONSTRUCTION OF SUBCHAPTER. (a) It is the intent of the legislature to enhance opportunities for a person to obtain gainful employment after the person has:

(1) been convicted of an offense; and

(2) discharged the sentence for the offense.

(b) This chapter shall be liberally construed to carry out the intent of the legislature.

SECTION 2. Section 53.021(a), Occupations Code, is amended to read as follows:

(a) Subject to Section 53.0231, a [A] licensing authority may 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:

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation;

~~(2) [an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was~~

1 ~~committed less than five years before the date the person applies~~
2 ~~for the license;~~

3 ~~(3)~~ an offense listed in Article 42A.054, Code of
4 Criminal Procedure; or

5 (3) ~~(4)~~ a sexually violent offense, as defined by
6 Article 62.001, Code of Criminal Procedure.

7 SECTION 3. Section 53.022, Occupations Code, is amended to
8 read as follows:

9 Sec. 53.022. FACTORS IN DETERMINING WHETHER CONVICTION
10 DIRECTLY RELATES TO OCCUPATION. In determining whether a criminal
11 conviction directly relates to the duties and responsibilities of a
12 licensed ~~an~~ occupation, the licensing authority shall consider
13 each of the following factors:

14 (1) the nature and seriousness of the crime;

15 (2) the relationship of the crime to the purposes for
16 requiring a license to engage in the occupation;

17 (3) the extent to which a license might offer an
18 opportunity to engage in further criminal activity of the same type
19 as that in which the person previously had been involved; ~~and~~

20 (4) the relationship of the crime to the ability or ~~[7]~~
21 capacity ~~[7, or fitness]~~ required to perform the duties and
22 discharge the responsibilities of the licensed occupation; and

23 (5) any correlation between the elements of the crime
24 and the specific duties and responsibilities of the licensed
25 occupation.

26 SECTION 4. The heading to Section 53.023, Occupations Code,
27 is amended to read as follows:

1 Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO
2 CONSIDER AFTER DETERMINING CONVICTION DIRECTLY RELATES TO
3 OCCUPATION.

4 SECTION 5. Sections 53.023(a) and (b), Occupations Code,
5 are amended to read as follows:

6 (a) If a licensing authority determines under Section
7 53.022 that a criminal conviction directly relates to the duties
8 and responsibilities of a licensed occupation, [In determining the
9 fitness to perform the duties and discharge the responsibilities of
10 the licensed occupation of a person who has been convicted of a
11 crime,] the licensing authority shall consider the following in
12 determining whether to take an action authorized by Section 53.021
13 [, in addition to the factors listed in Section 53.022]:

14 (1) the extent and nature of the person's past criminal
15 activity;

16 (2) the age of the person when the crime was committed;

17 (3) the amount of time that has elapsed since the
18 person's last criminal activity;

19 (4) the conduct and work activity of the person before
20 and after the criminal activity;

21 (5) evidence of the person's rehabilitation or
22 rehabilitative effort while incarcerated or after release; ~~and~~

23 (6) evidence of the person's compliance with any
24 conditions of community supervision, parole, or mandatory
25 supervision; and

26 (7) other evidence of the person's fitness, including
27 letters of recommendation [from:

1 ~~[(A) prosecutors and law enforcement and~~
2 ~~correctional officers who prosecuted, arrested, or had custodial~~
3 ~~responsibility for the person;~~

4 ~~[(B) the sheriff or chief of police in the~~
5 ~~community where the person resides; and~~

6 ~~[(C) any other person in contact with the~~
7 ~~convicted person].~~

8 (b) The applicant has the responsibility, to the extent
9 possible, to obtain and provide to the licensing authority the
10 recommendations described ~~[of the prosecution, law enforcement,~~
11 ~~and correctional authorities as required]~~ by Subsection (a)(7)
12 ~~[(a)(6)]~~.

13 SECTION 6. Subchapter B, Chapter 53, Occupations Code, is
14 amended by adding Section 53.0231 to read as follows:

15 Sec. 53.0231. NOTICE OF PENDING DENIAL OF LICENSE. (a)
16 Notwithstanding any other law, a licensing authority may not deny a
17 person a license or the opportunity to be examined for a license
18 because of the person's prior conviction of an offense unless the
19 licensing authority:

20 (1) provides written notice to the person of the
21 reason for the intended denial; and

22 (2) allows the person not less than 30 days to submit
23 any relevant information to the licensing authority.

24 (b) A notice required under Subsection (a) must contain, as
25 applicable:

26 (1) a statement that the person is disqualified from
27 receiving the license or being examined for the license because of

1 the person's prior conviction of an offense specified in the
2 notice; or

3 (2) a statement that:

4 (A) the final decision of the licensing authority
5 to deny the person a license or the opportunity to be examined for
6 the license will be based on the factors listed in Section
7 53.023(a); and

8 (B) it is the person's responsibility to obtain
9 and provide to the licensing authority evidence regarding the
10 factors listed in Section 53.023(a).

11 SECTION 7. Section 53.051, Occupations Code, is amended to
12 read as follows:

13 Sec. 53.051. NOTICE. A licensing authority that suspends
14 or revokes a license or denies a person a license or the opportunity
15 to be examined for a license because of the person's prior
16 conviction of an offense [~~a crime and the relationship of the crime~~
17 ~~to the license~~] shall notify the person in writing of:

18 (1) the reason for the suspension, revocation, denial,
19 or disqualification;

20 (2) the review procedure provided by Section 53.052;
21 [~~and~~]

22 (3) the earliest date the person may appeal the action
23 of the licensing authority; and

24 (4) if applicable, any remedial actions by the person
25 or relevant circumstances that the licensing authority would
26 consider in determining whether to approve the person's application
27 or allow the person to take the examination in the future.

1 SECTION 8. Section 53.023(c), Occupations Code, is
2 repealed.

3 SECTION 9. The changes in law made by this Act apply only to
4 an application for a license submitted on or after the effective
5 date of this Act. An application for a license submitted before the
6 effective date of this Act is governed by the law in effect on the
7 date the application was submitted, and the former law is continued
8 in effect for that purpose.

9 SECTION 10. This Act takes effect September 1, 2019.