

SUBJECT: Removing grounds for disqualifying ex-convicts for licensing

COMMITTEE: Corrections — committee substitute recommended

VOTE: 9 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Neave, Sherman,  
Stephenson

0 nays

WITNESSES: For — Terra Tucker, Alliance for Safety and Justice; Nick Hudson, American Civil Liberties Union of Texas; David Johnson, Grassroots Leadership and Texas Advocates for Justice; Kaden Norton, Prison Fellowship Ministries; Douglas Smith, Texas Criminal Justice Coalition; Haley Holik, Texas Public Policy Foundation; Mia Greer; (*Registered, but did not testify*: Traci Berry, Goodwill Central Texas; Darwin Hamilton, Grassroots Leadership; Arif Panju, Institute for Justice; Laura Nodolf, Midland County District Attorney's Office; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers-Texas Chapter; John McCord, NFIB; Carrie Simmons, Opportunity Solutions Project; Josiah Neeley, R Street Institute; Rene Lara, Texas AFL-CIO; Dwight Harris, Texas American Federation of Teachers; Mia Hutchens, Texas Association of Business; Lori Henning, Texas Association of Goodwills; Mike Meroney, Texas Association of Manufacturers; Lance Lowry, Texas Association of Taxpayers; Michael Barba, Texas Catholic Conference of Bishops; Mia McCord, Texas Conservative Coalition; Jennifer Erschabek, Texas Inmate Families Association; Alexis Tatum, Travis County Commissioners Court; Marc Levin)

Against — None

On — (*Registered, but did not testify*: Brad Bowman and Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code sec. 53.021 allows an occupational licensing authority to disqualify a person from receiving a license, or to suspend or revoke a

license, on grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation, or for any offense committed within five years of the date the person applies for the license.

Concerns have been raised about the barriers to eligibility for an occupational license faced by Texans who have been convicted of an offense within five years of license application, regardless of whether the offense is related to the occupation.

DIGEST:

CSHB 1342 would eliminate certain grounds for disqualification for an occupational license, authorize restricted occupational licenses, and authorize alternative means of verifying a person's eligibility for a license, with the intent of enhancing opportunities for persons to obtain employment after discharging a sentence for a criminal conviction.

**Unrelated convictions.** The bill would remove as grounds for disqualification for an occupational license a conviction within the past five years for an offense that did not directly relate to the duties and responsibilities of the licensed occupation.

**Licensing decision.** The bill would expand the list of factors a licensing authority had to consider in determining whether a criminal conviction directly related to the duties and responsibilities of a licensed occupation to include whether there was correlation between the elements of a crime and the duties and responsibilities of the occupation.

The bill also would expand the list of factors the authority would have to consider after determining that a conviction directly related to the occupation to include evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision.

The bill would repeal a provision requiring a license applicant who had been convicted of a crime to furnish proof of having maintained a steady record of employment, having supported the applicant's dependents, having maintained a record of good conduct, and having paid all

outstanding court costs, supervision fees, fines, and restitution.

**Notice of pending denial.** The bill would prohibit a licensing authority from denying a person a license or the opportunity to be examined for a license because of the person's prior conviction unless the licensing authority gave a written explanation of the intended denial and gave the person at least 30 days to respond with relevant information. The notice would have to state that the person was disqualified for receiving the license or being examined for the license because of the person's prior conviction as specified in the notice, or state that the final determination would be based on factors established by the bill and that it would be the person's responsibility to obtain and provide to the licensing authority evidence regarding those factors.

The bill would expand the written notice given to a person for whom a licensing authority had suspended, revoked, or denied a license or the opportunity to be examined for a license because of the person's prior conviction to include any statutory factors that served as the basis for the licensing authority's action.

**Restricted licenses for certain occupations.** The bill would authorize the Texas Commission of Licensing and Regulation (TCLR) or the executive director to issue a restricted license to an applicant for a license under the Air Conditioning and Refrigeration Contractor License Law or Texas Electrical Safety and Licensing Act as an alternative to denying, revoking, suspending, or refusing to issue or renew a license because of a criminal conviction.

The Texas Department of Licensing and Regulation (TDLR) could impose conditions on a holder of a restricted license, including limiting the scope or location of a licensee's practice, requiring the licensee to be supervised, and requiring the licensee to report to TDLR, including notification of any change in supervision. A supervising license holder would be required to use reasonable care to ensure that a restricted licensee complied with any conditions imposed. TCLR could impose an administrative penalty or other sanction on a restricted or supervising

licensee for a violation of these provisions.

The bill would authorize TDLR to use a distinctive design for the restricted license and state on it any condition of the restricted license. The bill would provide for the term of a restricted license and would set out provisions relating to its renewal and expiration.

**Training obtained while imprisoned.** The bill would allow a person to use education, training, or experience obtained in prison as sufficient evidence for determining eligibility for an occupational license. To qualify for this, a person would need to have previously held a license of the same type for which the person was applying. The person also must have maintained a record of good behavior while imprisoned and not have been convicted of a sexually violent offense or certain other offenses, among other criteria.

**Other provisions.** The bill would:

- require the state auditor to develop a guide of best practices for an applicant with a prior conviction to use when applying for a license and to publish the guide on the auditor's website; and
- allow a person whose license was revoked to apply for a new one before the first anniversary of the date of the revocation if the revocation was based solely on the person's failure to pay an administrative penalty and the person had paid the penalty in full or was paying it in good standing under a payment plan.

The bill would take effect September 1, 2019, and would apply to an application for a license submitted on or after the effective date.