

BILL ANALYSIS

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S.B. 523
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Individuals who have made great strides to rehabilitate themselves and put their criminal involvement in the past continue to find themselves struggling with barriers to employment. Texas requires occupational licenses for more than 25 percent of professions—impacting one in three working Texans and creating especially difficult barriers for the four in ten Texans who have an arrest or conviction record.

Often, people are determined to be ineligible for a license even when the offense is decades old or does not directly relate to the occupation. By utilizing vague phrases such as "moral character" in their disqualifying criteria, licensing boards make it difficult for individuals with criminal records to obtain an occupational license, and they are not required to give prospective applicants the opportunity to dispute their case.

Licensing boards should maximize their authority to grant licenses to qualified applicants who have put their past mistakes behind them. Providing stable and meaningful employment for people with a criminal record will promote economic stability, keep communities safe by reducing recidivism, and contribute to strong families.

S.B. 523 expands occupational licensing opportunities to people with criminal records by communicating legislative intent that licensing boards enhanced opportunities for people to obtain gainful employment after discharging their sentence.

As proposed, S.B. 523 amends current law relating to the consequences of a criminal conviction on a person's eligibility for an occupational license.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 53, Occupations Code, by adding Section 53.003, as follows:

Section 53.003. LEGISLATIVE INTENT; LIBERAL CONSTRUCTION OF SUBCHAPTER. (a) Provides that it is the intent of the legislature to enhance opportunities for a person to obtain gainful employment after the person has been convicted of an offense and discharged the sentence for the offense.

(b) Requires this chapter to be liberally construed to carry out the intent of the legislature.

SECTION 2. Amends Section 53.021(a), Occupations Code, as follows:

(a) Authorizes a licensing authority, subject to Section 53.0231, to 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) makes no changes to this subdivision;

(2) deletes existing text relating to an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license and redesignates Subdivision (3) as Subdivision (2); and

(3) creates this subdivision from existing Subdivision (3) and makes no further changes.

SECTION 3. Amends Section 53.022, Occupations Code, as follows:

Section 53.022. New heading: **FACTORS IN DETERMINING WHETHER CONVICTION DIRECTLY RELATES TO OCCUPATIONS.** Requires the licensing authority, in determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, to consider each of the following factors:

(1)–(3) makes no changes to these subdivisions;

(4) makes nonsubstantive changes to this subdivision; and

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

SECTION 4. Amends the heading to Section 53.023, Occupations Code, to read as follows:

Section 53.023. **ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER AFTER DETERMINING CONVICTION DIRECTLY RELATES TO OCCUPATION.**

SECTION 5. Amends Section 53.023(a) and (b), Occupations Code, as follows:

(a) Deletes existing text requiring a licensing authority to consider a list of factors in addition to factors listed in Section 53.022 in determining the fitness to perform duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime. Requires a licensing authority, if the licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, to consider the following in determining whether to take an action authorized by Section 53.021:

(1)–(4) makes no changes to these subdivisions;

(5) makes a nonsubstantive change to this subdivision;

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

(7) other evidence of the person's fitness, including letters of recommendation. Deletes existing text requiring the letters to be from certain persons.

(b) Provides that the applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7), rather than the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).

SECTION 6. Amends Subchapter B, Chapter 53, Occupations Code, by adding Section 53.021, as follows:

Sec. 53.0231. NOTICE OF PENDING DENIAL OF LICENSE. (a) Prohibits a licensing authority, notwithstanding any other law, from denying a person a license or the opportunity to be examined for a license because of the person's prior conviction of an offense unless the licensing authority:

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

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

(b) Requires a notice required under Subsection (a) to contain, as applicable:

(1) a statement that the person is disqualified from receiving the license or being examined for the license because of the person's prior conviction of an offense specified in the notice; or

(2) a statement that:

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

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

SECTION 7. Amends Section 53.051, Occupations Code, as follows:

Section 53.051. NOTICE. Requires a licensing authority that suspends or revokes a license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of an offense, rather than because of the person's a crime and the relationship of the crime to the license, to notify the person in writing of:

(1) makes no changes to this subdivision;

(2)–(3) makes nonsubstantive changes to these subdivisions; and

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

SECTION 8. Repealer: Section 53.023(c) (relating to proof considered by licensing authorities), Occupations Code.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2019.