

[2015 Session] Limit the Extent to Which Licensing Authorities Can Restrict Work-Ready Individuals with a Criminal Record

Policy Background:

The Texas Department of Licensing and Regulation requires individuals who apply for an occupational license regulated by the Department to disclose every crime for which they have received a conviction or deferred adjudication, even if the crime occurred more than 10 years ago. Although there is no specific crime that will result in the automatic denial of a license, the Department, in its discretion, can deny a license for any conviction, deferred adjudication, or “other information that indicates a lack of honesty, trustworthiness, or integrity to hold a license.” This unrestrained discretion of both the Department and other licensing entities to deny occupational licenses for individuals with a criminal record limits those individuals’ opportunities to secure stable employment and provide for themselves and their families.

Texas policy-makers should limit the extent to which licensing authorities can deny, suspend, or revoke occupational licenses without demonstrating that the denial is related to public safety or health.

Policy-makers should also reduce the need for licensure for certain occupations.

Key Facts:

- Previously incarcerated individuals who are employed are at least three times less likely to re-offend than those who are unemployed,^[1] reaffirming the importance of work during the critical reentry transition.
- Licensing authorities can only deny licenses to individuals for having committed crimes “directly related” to the duties and responsibilities of the licensed occupation, or for crimes committed less than five years before application for the license.^[2]

Evidence has shown that many licensing agencies view nearly all crimes as

“directly related” to the occupations they issue licenses for.[3] For example, the boards that regulate water well drillers, auctioneers, and barbers each consider crimes involving illegal drugs to be directly related to their fields.[4] This leaves many work-ready individuals scrambling to find employment.

- Requiring licensing authorities to demonstrate that a license denial is related to public safety or health is a safeguard that will protect the consumer while increasing the number of employed Texans and reducing the tax burden on all Texans.

Relevant Bills:

- **Bill Number:** [HB 551](#) (Johnson)
Bill Caption: Relating to the consideration of criminal history record information regarding applicants for professional licenses.
TCJE Materials: [Fact Sheet](#)
- **Bill Number:** [HB 1503](#) (Canales)
Bill Caption: Relating to the rights of certain defendants who successfully complete a term of community supervision.
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on March 25, 2015](#)
TCJE Action: [Card in support](#)
- **Bill Number:** [HB 3742](#) (author: Smith | sponsor: Eltife)
Bill Caption: Relating to the authority of the Texas Department of Licensing and Regulation to determine applicant eligibility for a license.
House Hearing Notice: House Licensing & Administrative Procedures Committee, [Notice of Public Hearing on April 6, 2015](#)
TCJE House Action: [Card in support](#)
Senate Hearing Notice: Senate Business & Commerce Committee, [Notice of Public Hearing on May 14, 2015](#)
Outcome: [Effective 9/1/15](#)
- **Bill Number:** [SB 1080](#) (Eltife)
Bill Caption: Relating to the authority of the Texas Department of Licensing and Regulation to determine applicant eligibility for a license and to discipline license holders.
Hearing Notice: Senate Business & Commerce Committee, [Notice of Public Hearing on April 7, 2015](#)

- **Bill Number:** [SB 1082](#) (Rodríguez)
Bill Caption: Relating to the establishment of an informal preliminary hearing process before the suspension, revocation, or denial of certain occupational licenses as a result of certain criminal convictions.
- **Bill Number:** [SB 1179](#) (Huffines)
Bill Caption: Relating to abolishing certain occupational licensing requirements and associated regulations.
- **Bill Number:** [SB 1346](#) (Huffines)
Bill Caption: Relating to the regulation of occupations by this state.
- **Bill Number:** [SB 1608](#) (Huffines)
Bill Caption: Relating to abolishing certain occupational licensing requirements and associated regulations.

Relevant Media:

- **Texas Observer:** “[Lege May Finally Lift Hiring Policies That Hurt Ex-Cons](#)” [February 9, 2015]
- **Enid News:** “[One box says it all for job-hunters with a criminal past](#)” [January 10, 2015]

[1] Goodwill Industries of Central Texas, *Annual Report 2007*;
[http://www.austingoodwill.org/media/literature/Annual%20Report%202007%20Web.p
df](http://www.austingoodwill.org/media/literature/Annual%20Report%202007%20Web.pdf)

[2] Section 53.021(a), Texas Occupations Code.

[3] Marc Levin, *Working with Conviction: Criminal Offenses as Barriers to Entering Licensed Occupations in Texas*, Texas Public Policy Foundation, Center for Effective Justice, November 7, 2007;
<http://www.texaspolicy.com/center/effective-justice/reports/working-conviction>

[4] Texas Department of Licensing and Regulation, *Licensing Restriction Guidelines for Criminal Convictions*, April 7, 2008; <http://www.license.state.tx.us/crimconvict.htm>