

Enhance Employment Opportunities for Individuals Who Have or Are Seeking Occupational and Professional Licenses

OFFERING HEARINGS TO INDIVIDUALS BEFORE DENYING OR REVOKING LICENSES INCREASES FAIRNESS, CONSISTENCY

Many individuals who enter prison or jail practiced a trade before becoming involved in the criminal justice system. Others learn a trade while incarcerated through available vocational programs. However, once released from incarceration, individuals with felony or certain misdemeanor convictions are restricted from obtaining or maintaining an occupational license in certain fields and under particular circumstances,¹ denying them the opportunity to practice their given trade and support themselves and their families.

The Texas Occupations Code, Section 53, extends to licensing agencies the authority to suspend or revoke a person's license, disqualify a person from receiving a license, or deny a person the opportunity to take a license examination **only** upon a conviction.² In all instances defined by Section 53, an extensive appeals process is spelled out, allowing license holders the chance to point out that time has elapsed since the crime was committed;³ encouraging them to show evidence of their rehabilitation;⁴ and giving them the right to provide letters of recommendation, especially from law enforcement officials.⁵

However, Chapter 1702 of the Occupations Code subverts this process by allowing licensing agencies the authority to deny individuals the right to apply for a license or suspending an already-granted license merely upon being **charged** with a crime (not indicted for or convicted of the crime). For example, the Texas Department of Public Safety – which regulates locksmiths, alarm installers, and private security, armored car, and courier firms, among others – has the power to summarily deny an individual's application for a license or suspend an already granted license **merely upon notification of pending charges** which, if proven, would render the applicant ineligible for licensure.⁶

In all instances – whether a person has been charged with or convicted of a crime – individuals should be provided the right to appeal before a license is denied or suspended, giving them the opportunity to work at their profession until a final determination is issued.

While we acknowledge that some restrictions on licensing are in the interest of public and individual safety, **other restrictions are overbroad**. Consequently, they degrade the American ethos of the value of work, and they forever stigmatize individuals who become involved in the criminal justice system. This practice diminishes the positive affirmation that comes from practicing a trade for which an individual has been trained. It also prevents individuals from supporting their families by denying them the chance to apply for a license or by revoking a license **before** they have had a chance to present all mitigating factors to a panel.

KEY FINDINGS

- Occupation regulation in Texas occurs in two ways: (1) by requiring an individual to obtain a license to perform a job, or (2) by requiring businesses in certain fields to maintain a license.
- Previously incarcerated individuals who are employed are at least three times less likely to re-offend than those who are employed,⁷ reaffirming the importance of work during the critical reentry transition.

Continued on reverse.

KEY FINDINGS (CONTINUED)

- After five years of a clean record, individuals have a very low chance of re-offending.⁸
- Under current practice, an individual applying for any license under Chapter 1702 of the Occupations Code is disqualified from license eligibility for having a Dishonorable Discharge from the U.S. Military, or merely for having been discharged from the military “under other conditions determined by the board to be prohibitive,”⁹ regardless of what that discharge was for – despite what we know about the effects of Post-Traumatic Stress Syndrome on service members, and without recourse to appeal. In other words, certain military discharges are the equivalent of a conviction for licensing purposes.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 551 BY REPRESENTATIVE JOHNSON

- **HB 551 will provide individuals the opportunity to attend a hearing to present arguments and evidence in favor of their licensure before an application for a license is denied or a license is revoked.** This will improve the likelihood that work-ready Texans are licensed in their chosen trade, allowing them to support their families and contribute to the welfare of their communities, and reaffirming the value of education and employment.
- **HB 551 provides consistency and fairness across the Texas Occupations Code.** Section 53 of the Texas Occupations Code only allows denial or revocation of a license upon a conviction, while Chapter 1702 does so merely upon impending charges. This legislation does away with inconsistency. Furthermore, current restrictions against license applications due to military discharges deny the impact of trauma and combat on veterans who otherwise may have excellent qualifications; this policy change will better address their individual circumstances.

Citations

¹ House Committee on Government Reform, Texas House of Representatives, *Interim Report 2008*, <http://www.house.state.tx.us/media/pdf/committees/reports/80interim/GovernmentReform80th.pdf>.

² Sec. 53.021. (a), Texas Occupations Code.

³ Sec. 53.023. (a)(3), Texas Occupations Code.

⁴ Sec. 53.023. (a)(5), Texas Occupations Code.

⁵ Sec. 53.023. (a)(6)(A)(B), Texas Occupations Code.

⁶ Sec. 1702.364. (a)(1), Texas Occupations Code.

⁷ Goodwill Industries of Central Texas, *Annual Report 2007*, <http://www.austingoodwill.org/media/literature/Annual%20Report%202007%20Web.pdf>.

⁸ Megan C. Kurlychek, Robert Brame, Shawn D. Bushway, *Enduring Risk? Old Criminal Records and Short-Term Predictions of Criminal Involvement*, March 2006, <http://blogs.law.columbia.edu/4cs/files/2008/11/crime-and-delinquency-racine.pdf>.

⁹ Sec. 1702.113. (a)(3), Texas Occupations Code.