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**IMPLEMENTATION GUIDE**

**HB 1342**

## Implementation Guide for Nonprofits and Administering Schools 86<sup>th</sup> Texas Legislative Session

***HB 1342 (Authors: Leach, Allen, Toth, Jarvis Johnson, Rose | Sponsor: Hinojosa):** Relating to a person's eligibility for an occupational license; providing an administrative penalty. – Effective September 1, 2019*

### **OCCUPATIONAL LICENSING RESTRICTIONS HAVE HAD A SEVERE IMPACT ON TEXANS SEEKING WORK**

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.<sup>1</sup>

Automatic exclusions, vague disqualifying criteria, and broad criminal record inquiries have made occupational licensure difficult to obtain for individuals with criminal records.<sup>2</sup>

Furthermore, while licensing authorities *can* approve license applications from certain people with criminal records, many people with records assume they should not apply. According to the Texas Department of Licensing and Regulation, only about 500 people with criminal records submit requests for a criminal history evaluation letter each year, the first step toward determining if their record will prevent them from entering one of Texas' 41 licensed occupations.<sup>3</sup>

### **WHAT DOES HB 1342 DO?**

House Bill 1342 went into effect on September 1, 2019. The bill provides direction from the Legislature to licensing authorities to remove unnecessary barriers to skilled professions and maximize licensing opportunities for people with criminal records. More specifically, the intention is to reduce the practice of automatically denying someone with a criminal record from obtaining a license based on their conviction or arrest history, and to instead ensure that licensing boards are making individualized determinations of eligibility. The legislation outlines narrow and specific criteria that a licensing board may consider when making a determination about whether an offense directly relates to a particular occupation.

#### **Goals of HB 1342**

1. Reduce the number of people denied an occupational licensing opportunity due to their criminal history.
2. Increase the number of people with criminal records pursuing careers in licensed occupations.

Importantly, HB 1342 also amends the provisions of code related to notice when a licensing authority denies a license or determines that an individual is ineligible for a license based on criminal history. Rather than issuing a general denial or disqualification, licensing authorities are required to state the specific offense and additional factors considered in making its determination.

This will provide the applicant or prospective applicant with a roadmap for addressing disqualifying factors, and it will send a clear message to other prospective applicants that criminal history considerations are made on an individualized basis. A key goal of HB 1342 is to increase the number of prospective applicants applying for criminal history evaluation letters, overcoming the presumption that people with criminal records need not apply.

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. House Bill 1342 is intended to increase the number of qualified workers, helping Texas maintain its vibrant economy.

### **HOW CAN NONPROFITS AND ADMINISTERING SCHOOLS HELP IMPLEMENT HB 1342?**

**Nonprofit organizations and administering schools that offer or pay for occupational training for people with a criminal record must ensure that applicants are aware they can submit a criminal history evaluation before applying for an occupational license.**

1. Organizations and schools should not assume that a person with a specific conviction history will be disqualified for licensure simply because a different applicant with a similar history was denied. Under HB 1342, licensing boards are required to consider both offense factors and additional factors, such as the date of last conviction, completion of rehabilitative programming, and letters of reference.
2. Organizations and schools should only caution someone about applying for a license or requesting a criminal history evaluation letter if a statutory exclusion expressly prohibits people with a specific offense history from licensure. If a licensing authority lists a disqualifying offense in an administrative rule, organizations and schools must recognize that *rules are not laws* and that the list of offenses often provides examples of the types of offenses for which a person may be denied licensure.
3. If the criteria for licensing someone with a criminal history seems unclear, organizations and schools should contact the licensing board. House Bill 1342 requires licensing boards to collaborate with the State Auditor's Office to develop technical assistance for consideration of a person's criminal history. Organizations' and schools' questions and input will result in clearer guidance.
4. Organizations and schools must acknowledge that people with criminal histories typically assume they will not qualify for a license. It is imperative that those who work with system-impacted people encourage them to request a criminal history evaluation letter, and to provide financial assistance to cover the costs that licensing boards charge to perform the criminal history review.

<sup>1</sup> Maurice Emsellem, *Fair Chance Hiring: Reducing Criminal Records Barriers to Employment Improves Public Safety and Builds Stronger Communities*, 2014, <https://law.utexas.edu/wp-content/uploads/sites/27/Fair-Chance-Hiring-Presentation-by-Maurice-Emsellem.pdf>.

See also: Texas Occupations Code §53.023.

<sup>2</sup> Texas Occupations Code, Chapter 53, Consequences of Criminal Conviction.

<sup>3</sup> Data obtained from Texas Department of Licensing and Regulation, September 2019.