

House Bill 1426
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. CERTIFICATE OF RELIEF FROM COLLATERAL CONSEQUENCES

Art. 68.001. DEFINITIONS. In this chapter:

(1) "Certificate" means a certificate of relief from collateral consequences issued under this chapter.

(2) "Collateral consequence" means, as an indirect consequence of a person's criminal history record information, the revocation, suspension, or denial of licensure under Section 53.021, Occupations Code.

(3) "Criminal history record information" has the meaning assigned by Section 411.082, Government Code.

Art. 68.002. ELIGIBILITY. Except as otherwise provided by this article, a person is eligible for a certificate if the person satisfactorily completed:

(1) a term of deferred adjudication community supervision and the judge has dismissed the proceedings and discharged the person under Article 42A.111; or

(2) a term of community supervision and the person's conviction is set aside under Article 42A.701.

Art. 68.003. PROVISION OF CERTIFICATE. The court shall provide a certificate to an eligible individual not later than the 30th day after the date the court receives verification that the person has satisfactorily completed the eligibility requirements, as provided by Article 68.002.

SENATE VERSION (IE)

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Art. 68.002. ELIGIBILITY. Except as otherwise provided by this article, a person is eligible for a certificate if the person satisfactorily completed:

(1) a term of deferred adjudication community supervision and the judge has dismissed the proceedings and discharged the person under Article 42A.111; or

(2) a term of community supervision and the person's conviction is set aside under Article 42A.701.

Art. 68.003. PROVISION OR DENIAL OF CERTIFICATE.

(a) Not later than the 30th day after the date the court receives verification that an individual has satisfactorily completed the eligibility requirements, as provided by Article 68.002, the court shall:

(1) issue the certificate; or

(2) deny issuance of the certificate and provide the specific reason for the denial.

(b) In determining whether to issue a certificate to an eligible individual, the court shall consider the individual's conduct and progress following placement on community supervision.

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including:

(1) the individual's efforts to satisfactorily fulfill the conditions of community supervision;

(2) the individual's satisfactory participation in rehabilitative courses or programs, including substance abuse treatment, vocational training courses, cognitive intervention, anger management courses, high school equivalency programs, or other courses or programs, regardless of whether the participation was ordered as a condition of community supervision;

(3) the individual's past or current participation in community organizations or programs, including faith-based programs, 12-step or similar self-help chemical dependency recovery programs, or other pro-social organizations; and

(4) the individual's education or employment history following placement on community supervision, including whether the individual is employed or diligently attempting to obtain an education or seek employment.

(c) An individual whose petition for a certificate is denied may reapply for the issuance of a certificate relating to the same offense after the first anniversary of the denial.

Art. 68.004. CONTENT OF CERTIFICATE. A certificate must state that the recipient has completed a term of community supervision and all requirements imposed by the court related to the offense and is relieved of all penalties, disqualifications, and disabilities resulting from the offense.

Art. 68.005. EFFECT OF CERTIFICATE. (a) If a person has met the eligibility requirements under Article 68.002, the person's criminal history record information for the offense that is the subject of the certificate may not be used as grounds for denying, suspending, or revoking a professional or occupational license to the person, provided that the person is

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otherwise qualified for the license, unless the offense that is the subject of the certificate:

(1) was an offense:

(A) under Chapter 21 or 43, Penal Code; or

(B) listed in Article 42A.054 or 62.001(5) or (6), Code of Criminal Procedure; or

(2) relates to the profession or occupation for which the person holds or is seeking a license.

(b) If a licensing authority is prohibited by law from granting a specific occupational license to a person who has been convicted of or placed on deferred adjudication community supervision for a specific offense, a certificate does not overcome that prohibition.

(c) Subsection (a) does not apply to a professional license issued under Subtitle A, Title 5, or Title 10, Occupations Code. An agency that issues licenses under those provisions shall comply with Sections 53.022 and 53.023 of that code in determining whether a person qualifies for a license.

(d) Subsection (a) does not prohibit a licensing agency from restricting a person to a provisional or probationary license.

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otherwise qualified for the license, unless the offense that is the subject of the certificate:

(1) was an offense:

(A) under Chapter 21 or 43, Penal Code, other than an offense under Section 43.02(a) of that code; or

(B) listed in Article 42A.054 or 62.001(5) or (6) of this code; or

(2) relates to the profession or occupation for which the person holds or is seeking a license.

(b) If a licensing authority is prohibited by law from granting a specific occupational license to a person who has been convicted of or placed on deferred adjudication community supervision for a specific offense, a certificate does not overcome that prohibition.

(c) Subsection (a) does not apply to a professional license issued under Subtitle A, Title 5, or Title 10, Occupations Code. An agency that issues licenses under those provisions shall comply with Sections 53.022 and 53.023 of that code in determining whether a person qualifies for a license.

(d) Subsection (a) does not prohibit a licensing agency from restricting a person to a provisional or probationary license.

() Subsection (a) does not apply to:

(1) an educator employed by or seeking employment by a school district, district of innovation, open-enrollment charter school, regional education service center, or shared services arrangement;

(2) a person who holds or seeks a certificate issued by the State Board for Educator Certification under Subchapter B, Chapter 21, Education Code; or

(3) a person required to be licensed by a state agency to be employed by a school district, as provided by Section 21.003, Education Code. [FA1]

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Art. 68.006. NULLIFICATION OF CERTIFICATE. The effect of a person's certificate is nullified if the appropriate licensing authority finds that the person, after receiving the certificate, has committed an offense that is a Class A misdemeanor or higher category of offense.

SECTION 2. The change in law made by this Act applies to a person eligible for a certificate under Article 68.002, Code of Criminal Procedure, as added by this Act, regardless of whether the person completed a term of community supervision before, on, or after that date.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

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Art. 68.006. NULLIFICATION OF CERTIFICATE. The effect of a person's certificate is nullified if the appropriate licensing authority finds that the person, after receiving the certificate, has committed an offense that is a Class A misdemeanor or higher category of offense.

No equivalent provision.

SECTION 2. Same as House version.

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