

SENATE AMENDMENTS

2nd Printing

By: Allen, White

H.B. No. 1426

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

1 conviction is set aside under Article 42A.701.

2 Art. 68.003. PROVISION OF CERTIFICATE. The court shall
3 provide a certificate to an eligible individual not later than the
4 30th day after the date the court receives verification that the
5 person has satisfactorily completed the eligibility requirements,
6 as provided by Article 68.002.

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

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

19 (1) was an offense:
20 (A) under Chapter 21 or 43, Penal Code; or
21 (B) listed in Article 42A.054 or 62.001(5) or
22 (6), Code of Criminal Procedure; or

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

25 (b) If a licensing authority is prohibited by law from
26 granting a specific occupational license to a person who has been
27 convicted of or placed on deferred adjudication community

1 supervision for a specific offense, a certificate does not overcome
2 that prohibition.

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

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

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

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

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

ADOPTED

MAY 23 2017

Lacey Spaw
Secretary of the Senate

Korri Burton

By: ~~*[Signature]*~~

H.B. No. 1426

Substitute the following for H.B. No. 1426:

By: *[Signature]*

C.S.H.B. No. 1426

A BILL TO BE ENTITLED

AN ACT

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relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision, for certain criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

3 Art. 68.003. PROVISION OR DENIAL OF CERTIFICATE. (a) Not
4 later than the 30th day after the date the court receives
5 verification that an individual has satisfactorily completed the
6 eligibility requirements, as provided by Article 68.002, the court
7 shall:

8 (1) issue the certificate; or

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

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

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

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

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

27 (4) the individual's education or employment history

1 following placement on community supervision, including whether
2 the individual is employed or diligently attempting to obtain an
3 education or seek employment.

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

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

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

19 (1) was an offense:

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

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

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

26 (b) If a licensing authority is prohibited by law from
27 granting a specific occupational license to a person who has been

1 convicted of or placed on deferred adjudication community
2 supervision for a specific offense, a certificate does not overcome
3 that prohibition.

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

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

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

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 1

BY: Paul Bellercont

Antony Spaw
Secretary of the Senate

1 Amend C.S.H.B. No. 1426 (senate committee printing) in
2 SECTION 1 of the bill, in added Article 68.005, Code of Criminal
3 Procedure (page 2, between lines 47 and 48), by adding the
4 following appropriately lettered subsection:

5 () Subsection (a) does not apply to:

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

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

13 (3) a person required to be licensed by a state agency
14 to be employed by a school district, as provided by Section
15 21.003, Education Code.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1426 by Allen (Relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision, for certain criminal offenses.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow courts to grant "certificates of relief" under certain circumstances to certain defendants who have successfully completed deferred adjudication community supervision. Such a certificate would prohibit certain state licensing boards from denying, suspending, or revoking a professional license on the basis of the criminal act for which the certificate was granted in certain circumstances. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, PBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1426 by Allen (relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision, for certain criminal offenses.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow courts to grant "certificates of relief" under certain circumstances to certain defendants who have successfully completed deferred adjudication community supervision. Such a certificate would prohibit certain state licensing boards from denying, suspending, or revoking a professional license on the basis of the criminal act for which the certificate was granted in certain circumstances. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, PBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1426 by Allen (Relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow courts to grant "certificates of relief" under certain circumstances to certain defendants who have successfully completed deferred adjudication community supervision. Such a certificate would prohibit certain state licensing boards from denying, suspending, or revoking a professional license on the basis of the criminal act for which the certificate was granted in certain circumstances. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, PBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 2, 2017

TO: Honorable James White, Chair, House Committee on Corrections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1426 by Allen (relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow courts to grant "certificates of relief" under certain circumstances to certain defendants who have successfully completed deferred adjudication community supervision. Such a certificate would prohibit certain state licensing boards from denying or withholding a professional license on the basis of the criminal act for which the certificate was granted. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, PBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 15, 2017

TO: Honorable James White, Chair, House Committee on Corrections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1426 by Allen (Relating to the issuance of a certificate of relief from collateral consequences to persons convicted of or placed on deferred adjudication community supervision for certain offenses.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow courts to grant "certificates of relief" under certain circumstances to certain defendants who have successfully completed deferred adjudication community supervision. Such a certificate would prohibit the state's licensing boards from denying or withholding a professional license on the basis of the criminal act for which the certificate was granted. The Office of Court Administration has indicated that while the bill would impose new obligations on the courts, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, MW, PBO