

2017 Regular Session

HOUSE BILL NO. 519

BY REPRESENTATIVE EMERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LICENSING: Provides relative to the issuance of certain licenses to ex-offenders

1 AN ACT

2 To amend and reenact Chapter 1-C of Title 37 of the Louisiana Revised Statutes of 1950,
3 to be comprised of R.S. 37:31 through 36, relative to provisional licenses issued to
4 ex-offenders through the "Provisional Licenses for Ex-Offenders Act"; to delete the
5 term "provisional" from the entirety of the Act to create the "Licenses for Ex-
6 Offenders Act"; to modify with respect to requirements applicable to the issuance of
7 licenses to ex-offenders; to provide with respect to terms for licenses and reporting
8 requirements of ex-offenders, entities issuing licenses, and certain departments and
9 divisions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 1-C of Title 37 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 37:31 through 36, is hereby amended and reenacted to read as follows:

13 CHAPTER 1-C. ~~PROVISIONAL~~ LICENSES FOR EX-OFFENDERS

14 §31. Short title

15 This Chapter shall be known and may be cited as the "~~Provisional~~ Licenses
16 for Ex-Offenders Act".

17 §32. Issuance of licenses to ex-offenders

18 Notwithstanding any provision of law or rule adopted and promulgated by
19 any state department, agency, board, commission, or authority to the contrary, an
20 entity issuing licenses, except for those listed in R.S. 37:36(E), for persons to engage
21 in certain fields of work pursuant to state law shall issue ~~either of the following~~ to

1 an otherwise qualified applicant who has been convicted of an offense or offenses,
2 except those described in R.S. 37:36(A) through (C); the

3 ~~(1) The license for which the applicant applied if the applicant meets all~~
4 ~~other requirements of the licensing qualifications, except those pertaining to former~~
5 ~~offenses.~~

6 ~~(2) A provisional license for which the applicant applied if the applicant~~
7 ~~meets all other requirements of the licensing qualifications except those pertaining~~
8 ~~to former offenses (referred to in this Chapter as "applicant" or "holder").~~

9 §33. ~~Provisional license; issuance; term; probation or parole~~ License; application by
10 ex-offender

11 A.~~(1)~~ An ex-offender may apply to any entity issuing licenses to engage in
12 certain fields of work pursuant to state law for a ~~provisional~~ license to engage in the
13 particular field of work for which the entity issues licenses.

14 ~~(2)B.~~ The licensing entity shall issue the ~~provisional~~ license for which the
15 applicant applied and is otherwise qualified to receive.

16 ~~B.~~ The licensing entity issuing the ~~provisional~~ license shall determine the
17 term for which the ~~provisional~~ license shall be valid; however, in no event shall a
18 ~~provisional~~ license issued pursuant to this Chapter be valid for fewer than ninety
19 days nor more than three hundred sixty days.

20 ~~C.~~ The licensing entity may require up to two years to have passed since an
21 applicant's last conviction or release from incarceration in order for the applicant to
22 qualify for the ~~provisional~~ license.

23 ~~D.(1)~~ An applicant who is on community supervision and who is issued a
24 ~~provisional~~ license pursuant to this Chapter shall provide the licensing entity the
25 name and contact information of the person at the Department of Public Safety and
26 Corrections, division of probation and parole, to whom he reports. If the applicant
27 reports to the probation or parole department of another state, he shall provide the
28 licensing entity the name and contact information of the person at that particular
29 department to whom he reports.

1 ~~(2) The licensing entity shall notify the probation or parole division or~~
2 ~~department and court in which the holder's offense was adjudicated that a provisional~~
3 ~~license has been issued to the applicant.~~

4 §34. ~~Provisional license~~ License; revocation

5 A. The licensing entity may revoke the ~~provisional~~ license issued pursuant
6 to this Chapter if the holder commits any of the following:

7 (1) A new ~~offense~~ felony conviction.

8 ~~(2) An act or omission that causes the holder of a provisional license~~
9 ~~community supervision, mandatory supervision, or parole to be revoked.~~

10 ~~(3)~~(2) A violation of law or rules governing the practice of the field of work
11 for which the ~~provisional~~ license was issued.

12 ~~B. A probation or parole department or division shall notify the licensing~~
13 ~~entity if the community supervision of the holder of a provisional license is revoked.~~

14 ~~C.~~B. A court shall notify the licensing entity if the holder of the ~~provisional~~
15 license is charged with a new offense.

16 ~~D.~~C. If a licensing entity revokes a ~~provisional~~ license pursuant to this
17 Section, each of the following apply:

18 (1) The holder shall not be entitled to receive another ~~provisional license or~~
19 ~~regular~~ license for which the applicant originally applied, even if otherwise qualified.

20 (2) The ability of the holder to subsequently obtain another ~~provisional~~
21 license from another licensing entity in the future is within the sole discretion of the
22 issuing entity.

23 §35. ~~Regular license~~ License; issuance; discretion of issuer

24 ~~A. A licensing entity shall issue the regular license for which the provisional~~
25 ~~license was issued on the expiration of the provisional license term if the holder of~~
26 ~~the provisional license does not commit acts described in R.S. 37:34(A).~~

27 ~~B.~~ Nothing in this Chapter shall be implicitly interpreted to preclude an
28 entity from exercising its existing discretion to issue a license to individuals not

1 covered ~~under~~ pursuant to the provisions of this Chapter, except where precluded by
2 another law.

3 §36. Exemptions; prohibitions; records; reports

4 A. A licensing entity shall not be required to issue a ~~provisional~~ license to
5 any person convicted of any of the following:

6 (1) Any grade of homicide enumerated in R.S. 14:29.

7 (2) A "crime of violence" as enumerated in R.S. 14:2(B).

8 (3) A "sex offense" as defined by R.S. 15:541.

9 B. A licensing entity shall not be required to issue a ~~provisional~~ license to
10 any person convicted of an offense involving fraud if the licensed field of work is
11 one in which the licensee owes a fiduciary duty to a client.

12 C. A licensing entity shall not be required to issue a ~~provisional~~ license to
13 an applicant whose conviction directly relates to the position of employment sought,
14 or to the specific field for which the license is required, or profession for which the
15 ~~provisional~~ license is sought.

16 D. A ~~provisional~~ license holder who supervises children or individuals who
17 lack mental capacity shall not do so without another licensee in the room at all times.

18 E.(1) This Chapter shall not apply to the following licensing entities:

19 (a) Any law enforcement agency.

20 (b) The Louisiana State Board of Medical Examiners.

21 (c) The Louisiana State Board of Dentistry.

22 (d) The Louisiana State Board of Nursing.

23 (e) The Louisiana State Board of Practical Nurse Examiners.

24 (f) The Louisiana State Racing Commission.

25 (g) The State Boxing and Wrestling Commission.

26 (h) The Louisiana Board of Pharmacy.

27 (i) The Louisiana Supreme Court.

28 (j) The Louisiana Professional Engineering and Land Surveying Board.

29 (k) The Louisiana State Board of Architectural Examiners.

- 1 (l) The Louisiana State Board of Private Investigator Examiners.
- 2 (m) The Louisiana State Board of Embalmers and Funeral Directors.
- 3 (n) The Louisiana State Board of Elementary and Secondary Education.
- 4 (o) The Office of Financial Institutions.
- 5 (p) The Louisiana Physical Therapy Board.
- 6 (q) The Louisiana Board of Massage Therapy.
- 7 (r) The office of alcohol and tobacco control of the Department of Revenue.
- 8 (s) The health standards section of the Louisiana Department of Health.
- 9 (t) The Department of Insurance.
- 10 (u) The Louisiana State Board of Social Work Examiners.
- 11 (v) The Louisiana State Board of Examiners of Psychologists.
- 12 (w) The Louisiana Behavior Analyst Board.
- 13 (x) All offices, boards, or commissions under the supervision of the deputy
14 secretary of the Department of Public Safety and Corrections, public safety services,
15 or the superintendent of the Louisiana State Police, which are not delineated in this
16 Section.
- 17 (y) The Louisiana Real Estate Commission.
- 18 (z) The Louisiana Real Estate Appraisers Board.
- 19 (aa) The Louisiana Licensed Professional Counselors Board of Examiners.
- 20 (2) Nothing in this Subsection shall be construed to preclude the licensing
21 entity, in its discretion, from adopting the provisions of this Chapter as policies or
22 administrative rules.
- 23 (3)(a) A licensing entity exempt from the provisions of this Chapter shall
24 keep record and compile a report of the number of ~~provisional~~ licenses denied by the
25 entity, including all reasons for such denial, when the denial is of an otherwise
26 qualified applicant who has been convicted of an offense or offenses, ~~except those~~
27 ~~described in Subsections A through C of this Section.~~
- 28 (b) Notwithstanding the exemption of licensing entities as provided in this
29 Section, any licensing entity issuing ~~provisional~~ licenses in accordance with this

1 Chapter to people with criminal convictions shall keep record and compile a report
2 of the number of ~~provisional~~ licenses issued and denied by the entity, including all
3 reasons for any such issuance or denial.

4 (c) The entity shall provide the report annually to the House Committee on
5 Commerce no later than February first of each year.

6 F. If a licensing entity believes that another exemption not provided in this
7 Section is necessary in a specific case to protect the public from a clear and
8 imminent danger, the entity may seek declaratory relief in district court through a
9 judicial order finding that the applicant shall not be issued a ~~provisional or regular~~
10 license because it would pose such a danger.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 519 Engrossed

2017 Regular Session

Emerson

Abstract: Provides relative to certain licenses issued to ex-offenders.

Present law provides for the "Provisional Licenses for Ex-Offenders Act". Proposed law deletes the term "provisional" from the entirety of present law to provide for the "Licenses for Ex-Offenders Act".

Present law requires non-exempt entities to issue a provisional license to an applicant if the applicant meets all other requirements of the licensing qualifications, except those pertaining to former offenses. Proposed law deletes present law.

Present law requires the licensing entity issuing the provisional license to determine the term for which the provisional license is valid. Provides that the issued provisional license cannot be made valid for fewer than 90 days nor more than 360 days. Proposed law deletes present law.

Present law authorizes the licensing entity to require up to 2 years of time passed since an applicant's last conviction or release from incarceration in order for the applicant to qualify for the provisional license. Proposed law deletes present law.

Present law requires an applicant on community supervision and who is issued a provisional license to provide the licensing entity with the name and contact information of the person at the Dept. of Public Safety and Corrections, division of probation and parole, to whom the applicant reports. Provides if the applicant reports to the probation or parole department of another state, he is also required to provide the licensing entity with the name and contact information of the person at that particular department to whom he reports. Proposed law deletes present law.

Present law requires the licensing entity to notify the probation or parole division or department, and the court, in which the provisional license holder's offense was adjudicated that a provisional license has been issued to the applicant. Proposed law deletes present law.

Present law authorizes the licensing entity to revoke the provisional license if the holder commits a new offense. Proposed law changes new "offense" to new "felony conviction" and otherwise retains present law.

Present law authorizes the licensing entity to revoke the provisional license if the holder commits an act or omission requiring the holder's subjection to community supervision or mandatory supervision, or revocation of parole. Proposed law deletes present law.

Present law requires a probation or parole department or division to notify the licensing entity if the community supervision of the holder of a provisional license is revoked. Proposed law deletes present law.

Present law requires a licensing entity to issue the regular license for which the provisional license was issued on the expiration of the provisional license term, if the holder of the provisional license does not commit acts described in present law (R.S. 37:34(A)). Proposed law deletes present law.

Present law provides that a licensing entity is not required to issue a provisional license to any person convicted of any of the following:

- (1) Any grade of homicide enumerated in R.S. 14:29.
- (2) A "crime of violence" as enumerated in R.S. 14:2(B).
- (3) A "sex offense" as defined by R.S. 15:541.

Proposed law deletes the term "provisional" but otherwise retains present law.

Present law requires a licensing entity exempt from present and proposed law to keep record and compile a report of the number of provisional licenses denied by the entity, including all reasons for such denial, when the denial is of an otherwise qualified applicant convicted of an offense or offenses, except those defenses described in present law (R.S. 37:37(A) through (C)).

Proposed law deletes the term "provisional" and deletes the exception of defenses and statutory reference (R.S. 37:37(A) through (C)) described in present law. Otherwise retains present law.

Present law requires a licensing entity issuing provisional licenses to keep record and compile a report of the number of provisional licenses issued and denied by the entity, including all reasons for any such issuance or denial.

Proposed law deletes the term "provisional" to refer to a license. Requires licensing entities to provide reports when licenses have been issued to people with criminal convictions.

(Amends R.S. 37:31-36)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Restore present law that provides that a licensing entity shall not be required to issue a license to any person convicted of any grade of homicide, a crime of violence, or a sex offense as those terms are defined by present law.