

**2003/2005 Updates to  
Statutory Restrictions on Convicted Felons in Texas  
Additions and Changes through the 78<sup>th</sup> and 79th Legislature, Regular Sessions**

In 2002, a list of Texas statutes restricting, or limiting, some activities of convicted felons was published and widely distributed to parole and probation officers, attorneys, inmates, libraries, schools, counselors, ministers and inmate families. The intent of the list is to identify laws which impact a former inmate upon his/her re-entry into society. *Procedures* available to a convicted individual and outlined in the statutes, such as the Code of Criminal Procedure, are excluded. For example, the *procedures* for expunging criminal records or restoring civil rights are excluded.

Users are reminded to consult the entire law cited instead of relying on the annotation in the list. Texas laws are available on the Internet at [www.capitol.state.tx.us](http://www.capitol.state.tx.us). Copies of the 2002 list may be purchased. An order form is available at this website, [www.sll.state.tx.us](http://www.sll.state.tx.us). Click on "Friends of the State Law Library" publications and print out the form to submit with payment of \$10.00.

This update was compiled after a thorough examination of the on-line statutes found at [www.capitol.state.tx.us](http://www.capitol.state.tx.us). The "Sections Affected" index for each of the two sessions was used to identify amendments or additions to the sections included in the 2002 publication.

**Summary of Changes and Corrections**

Details of changes for both 2005 and 2003 are itemized by part after this summary.

Substantive changes in 2005 were minimal. Changes in the language of the law pertained to jurors, criminal history as an open record, child care administrators, registered nurses, marriage and family counselors, pharmacists and veterinarians. Note these changes are primarily in the Occupations Code section below.

Substantive changes made in 2003 concerned the following sections:

For those seeking *alcoholic beverage permits*, the period of time required between the felony conviction and the issuance of a permit has been lengthened from three years to five years.

For *mortgage brokers*, the reference to "felony" was changed to "criminal offense".

The language referring to "felony" was also changed for a *court interpreters* license; instead of "felony" the statute refers to dishonorable or unethical conduct.

For *shorthand reporters*, disciplinary action when a complaint is filed is now mandated rather than optional: "may" was changed to "shall".

For an *auctioneer*, the language referring to the denial of a license for conviction of a felony or criminal offense involving moral turpitude was deleted.

*Athlete Agent* was inadvertently omitted from the 2002 publication. Add this occupation as item 17.22A, p.18 (Occupations Code, Sec. 2051.105) and note that an application for registration as an agent will be denied, if the applicant has been convicted of a felony or misdemeanor involving moral turpitude.

Item 12.3, p. 12 of the 2002 publication should have the following underlined words added to Health and Safety Code Sec. 250.006: employment of a felon is restricted until after the fifth anniversary of the date of the conviction.

Item 1.6, p. 1: Election Code reference to Art. 5.01 should be corrected to Art. 11.002.

**Details of changes: Listed in order by the 24 parts found in the Table of Contents, 2003 and 2005 changes are as follows:**

There are no 2005 or 2003 changes in the following two parts:

- 1. Texas Constitution**
- 2. Agriculture Code**

### **3. Alcoholic Beverage Code**

2005: no changes

2003 changes: House Bill 2005 of the 78<sup>th</sup> Legislature makes the following changes:

Item: 3.1 Alcohol, Liquor Permit Section 11.46

"three years" is changed to "five years"

Item s: 3.3 B 3.5, 3.8 Wine, Beer Retailer, Distribution Permit

"three years" is changed to "five years" Sections 25.06, 69.06

"two years" is changed to "five years" Sections 61.42, 61.43(a)

There are no 2005 or 2003 changes in the following two parts:

#### **4. Business and Commerce Code**

#### **5. Civil Practice and Remedies Code**

#### **6. Code of Criminal Procedure (CCP)**

2005: Item 6.12: "Felony with Sexual Offense": Art. 62.01 was changed to 62.001.

2003: Senate Bill 1477 made the following change:

Item 6.9 Records Expunged Art. 55.01

"arrested" becomes "placed under custodial or noncustodial arrest"

#### **7. Education Code**

2005: no changes

2003: House Bill 3506 makes the following changes:

Item 7.6 - 7.9 Grants New numbers for the following Articles:

7.6 Art. 56.354 becomes Art. 56.404

7.7 Art. 56.355 becomes Art. 56.405

7.8 Art. 56.353 becomes Art. 56.403

7.9 Art. 56.357 becomes Art. 56.407

There are no 2005 or 2003 changes in the following two parts:

#### **8. Election Code**

#### **9. Family Code**

#### **10. Finance Code**

2005: no changes

2003: Item 10.3 Mortgage Broker/Loan Officer Section 156.208

Senate Bill 1577 makes the following changes:

"felony" becomes "criminal offense"

"Article 6252-13c, Revised Statutes" becomes

"Chapter 53, Occupations Code"

Note: the change of "felony" to "criminal offense" provides consistency with the language regarding a loan officer found in 156.204.

#### **11. Government Code**

2005: Item 11.3 regarding a juror:

Senate Bill 451 changes the language to "has not been convicted of misdemeanor theft or a felony," and "is not under indictment or other legal accusation for misdemeanor theft or a felony."

Item 11.13 regarding criminal history as an open record:

House Bill 1263 (sec. 3) adds a "corrections" agency as an entity to determine whether records are sensitive and therefore confidential.

2003: Item 11.1 Shorthand Reporting Firm/Certified Shorthand Reporter  
Senate Bill 273 makes the following changes:  
Sections 52.029 (ADD) and 52.0295  
"may" becomes "shall" (reference to taking action when complaint received)  
after the word "revoke", the option "refuse to renew" is added

Item 11.2 Court Interpreter License  
Senate Bill 279 makes the following change:  
Sec. 57.048 the reference to "convicted of a felon" is deleted and the new wording states that a court interpreter license can be suspended or revoked on a finding that the individual, among other things, has "engaged in dishonorable or unethical conduct."

## **12. Health and Safety Code**

2005: Items 12.4 - 12.6 referring to the Texas Commissioner of Health is now "Commissioner of State Health Services."

2003: no changes

## **13. Human Resources Code**

2005: Item 13.1 is changed to refer to "Section 35A.02, Penal Code" and omit reference to "Section 36.131". The Penal Code section is concerned with "Medicaid Fraud"

Item 13.2 Child Care Administrator: Senate Bill 6 changes reference to "felony" to "criminal history."

2003: no changes

There are no changes in 2005 or 2003 to the following three sections:

## **14. Insurance Code**

## **15. Labor Code**

## **16. Local Government Code**

*There are changes for the following part:*

## **17. Occupations Code**

2005: Item 17.16 The Board of Dental Examiners shall suspend a license "on proof" that the person has been convicted of a felony. Occupations Code Sec. 263.006 Language referring to an administrative hearing was deleted.

Item 17.17 a registered nurse may be disciplined for a conviction "or a placement on deferred adjudication community supervision or deferred disposition" for a felony or for a misdemeanor involving moral turpitude. Occupations Code Sec. 301.452

Item 17.27 the Board of Examiners of marriage and Family therapists can now refuse to renew a person's license, not just suspend or revoke, if the person is convicted of a misdemeanor involving moral turpitude or a felony. Occupations Code Sec. 502.351.

Item 17.29. Pharmacist. Discipline extends to the holder of a "current or expired license." Occupations Code Sec. 565.001

Item 17.30 Pharmacist. License includes a Class E license subject to Sec. 565.003(b) Occupations Code Sec. 565.002

Item 17.31 Pharmacist. Delete "refuse to issue or renew a registration or may suspend or revoke any registration issued by the board." Instead, The Board may "take disciplinary action under Sec. 568.0035, and add "deferred adjudication" related to a felony or misdemeanor involving moral turpitude. Occupations Code Sec. 568.003

Item 17.35 Veterinarian. The language "On final conviction of the license holder, the license shall be revoked" was repealed. New language is "shall set the amount of the penalty to match the seriousness of the conviction." Occupations Code Sec. 801.406.

2003:

Senate Bill 1567, Sec. 2 repealed Item 17.41:

17.41. This section of the Occupations Code regarding the Texas Peace Officers Memorial Advisory Committee was repealed by Senate Bill 1567, Sec. 2. The legislation abolished the Advisory Committee and enacted Government Code, Chapter 3105 placing the administration of the Memorial under the State Preservation Board.

*Codification of civil statutes resulted in new citations to the Occupations Code:*

House Bill 3507 made the following changes:

Section 14A.004: VATCS Art. 3271b Sec. 9.01 for Geoscientist (Item 23.7) is codified at Chapter 1002 of the Occupations Code. Section 1002.402 describes grounds for disciplinary action as reported in Item 23.7

Section 14.003: VATCS 4506a for Intractable Pain Treatment (Item 23.8) is codified at Chapter 108 of the Occupations Code. See Section 108.002 for discipline of licensee if convicted of a drug-related felony: the Board of Medical Examiners shall suspend a license issued by the board if the license holder has been convicted of a felony under Chapter 481 or 483, or 485.032 of the Health and Safety Code.

Senate Bill 279 revised the statute pertaining to Item 17.47 Auctioneer: Occupations Code Sec.1802.251 is amended to delete language referring to the denial of a license for conviction of a felony or criminal offense involving moral turpitude. (Acts 2003, 78<sup>th</sup> Leg., ch. 816, Sec. 4.015).

NOTE: *Texas Codes Annotated* (West, 2004) states in a footnote to Sec. 1802.251: "An amendment made to this section by Acts 2003, 78<sup>th</sup> Leg., ch. 1276, Sec. 14A.374 [HB 3507] did not take effect pursuant to Sec. 1.002(b) of Acts 2003, 78<sup>th</sup> Leg., ch.1276 which states: "If any provision of this Act conflicts with a statute enacted by the 78<sup>th</sup> Legislature, Regular Session, 2003, the statute controls." HB 3507 is part of the continuing statutory revision program that results in codification without substantive changes to the law.

See also below: "Additional corrections:" Athlete Agent in the Occupations Code.

There are no 2005 or 2003 changes in the following five parts:

- 18. Penal Code**
- 19. Property Code**
- 20. Tax Code**
- 21. Transportation Code**
- 22. Water Code**

*There are changes to some items reported in the following:*

**23. Vernon 's Annotated Texas Civil Statutes (VATCS)**

Changes to Items 23.7, 23.8, are discussed above under Occupations Code, House Bill 3507.

Changes to items 23.11 and 23.12 made by House Bill 2922 are effective April 1, 2005 when the pertinent sections are repealed and Title I of the Insurance Code is codified.

There are no 2003 or 2005 changes to: **24. Court Rules.**

**Additional corrections to the original publication:**

Item 1.6, p.1: Reference to Election Code Art. 5.01 should read Art. 11.002

Item 12.3, p. 12: Health and Safety Code Sec. 250.006 restricts the employment of a felon until after the fifth anniversary of the date of the conviction.

Item 17.22, p.18 Add item 17.22A Athlete Agent. Occupations Code Sec. 2051.105 The Secretary of State shall deny an application for registration if the applicant has been convicted of a felony or misdemeanor involving moral turpitude.