

BILL ANALYSIS

Senate Research Center
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S.B. 1031
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to obtain a funeral director or embalmer license in Texas, an applicant must complete several educational requirements and serve as a provisional license holder for at least one year. Provisional license holders gain practical experience in the industry by working at a licensed facility and under the direct supervision of a licensed funeral director or embalmer.

Under current law, an individual is ineligible to obtain a provisional funeral director or embalmer license until the individual has completed an accredited mortuary science program. This restriction prevents those who are interested in pursuing a mortuary science career from ensuring they are truly committed to this goal before dedicating significant time and money to complete the educational requirements. Furthermore, it prevents applicants from earning money in the field that they could then apply to mortuary school expenses.

S.B. 1031 allows the Texas Funeral Service Commission (TFSC) to waive the mortuary science educational requirements for up to 12 months. This will allow applicants to work under a licensed mortuary professional with a provisional funeral director or embalmer license before completing their mortuary science degree. S.B. 1031 also streamlines various procedures relating to provisional funeral director and embalmer licenses. These changes ensure TFSC knows where provisional license holders are working, and that provisional license holders are making timely progress towards completing the funeral director or embalmer license requirements.

As proposed, S.B. 1031 amends current law relating to a provisional license to practice funeral directing or embalming.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Funeral Service Commission in SECTION 2 (Section 651.303, Occupations Code) and SECTION 7 (Section 651.3055, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Funeral Service Commission is rescinded in SECTION 8 (Sections 651.303 and 651.304, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 651.302, Occupations Code, as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) Requires the Texas Funeral Service Commission (TFSC) to issue a provisional license to practice funeral directing to an applicant who:

(1) and (2) Makes no change to these subdivisions;

(3) is employed by a funeral establishment to learn funeral directing, rather than is employed by a funeral director to learn funeral directing or embalming, under the instruction and supervision of a, rather than the, funeral director;

(4) and (5) Makes a nonsubstantive change; and

(6) complies with the requirements of this chapter and of TFSC.

(b) Requires TFSC to issue a provisional license to practice embalming to an applicant who:

(1) and (2) Makes no change to these subdivisions;

(3) is employed by a funeral establishment or commercial embalming facility to learn embalming under the instruction and supervision of an embalmer;

(4) files an application for a provisional license on a form provided by TFSC and verified under oath by the applicant;

(5) Redesignates Subdivision (4) text as Subdivision (5);

(6) Redesignates Subdivision (5) text as Subdivision (6).

(c) Authorizes TFSC to waive the requirements of Subsection (a)(2) or (b)(2) for a period not to exceed 12 months and issue to an applicant a provisional license that expires at the end of that period.

(d) Requires an applicant to submit to a criminal background check before submitting an application for a license.

SECTION 2. Amends Section 651.303, Occupations Code, by adding Subsections (a-1) and (e-1), as follows:

(a-1) Authorizes a provisional license holder to work only:

(1) in a funeral establishment or commercial embalming facility licensed by TFSC; and

(2) under the direct and personal supervision of a funeral director or embalmer, as applicable.

(e-1) Requires TFSC by rule to prescribe case reporting requirements for provisional license holders. Requires TFSC to provide case report forms to be used by a provisional license holder.

SECTION 3. Amends the heading to Section 651.304, Occupations Code, to read as follows:

Sec. 651.304. EMPLOYMENT NOTIFICATION.

SECTION 4. Amends Section 651.304, Occupations Code by amending Subsections (a) and (d) and adding Subsection (b), as follows:

(a) Requires a provisional license holder, on entering employment with a funeral establishment or commercial embalming facility, rather than on entering employment with a funeral director or embalmer, to immediately notify TFSC of the name of the establishment or facility where the provisional license holder will train, rather than to immediately notify TFSC of the name and place of business of the funeral director or embalmer under whom the provisional license holder will train. Requires the funeral director or embalmer in charge to sign the notification. Makes a nonsubstantive change.

(b) Requires a provisional license holder to be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license.

Requires TFSC, if a provisional license holder is not employed as required by this subsection, to cancel the provisional license.

(d) Requires the funeral director or embalmer in charge, if a provisional license holder leaves the employment of the funeral establishment or commercial embalming facility, rather than if a provisional license holder leaves the employment of a funeral director or embalmer, to prepare an affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the funeral establishment or facility, rather than while employed by the funeral director or embalmer. Requires the funeral director or embalmer to provide a copy of the affidavit to the provisional license holder. Makes nonsubstantive changes.

SECTION 5. Amends Subchapter G, Chapter 651, Occupations Code, by adding Section 651.3045, as follows:

Sec. 651.3045. TERMS OF PROVISIONAL LICENSE. (a) Provides that, except as provided by Subsection (c), a provisional license is valid for 12 consecutive months and may be renewed only once for a period not to exceed an additional 12 consecutive months.

(b) Requires TFSC to cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months.

(c) Provides that, if a provisional license holder holds a provisional license issued under Section 651.302(c), the provisional license may be renewed for a period not to exceed 24 consecutive months and requires the provisional license holder to complete the licensing requirements of the provisional license program within 36 consecutive months.

SECTION 6. Amends Section 651.305, Occupations Code, by amending Subsections (c) and (d) and adding Subsections (d-1), (d-2), and (d-3), as follows:

(c) Requires TFSC, if a provisional license holder fails to renew the provisional license, rather than if a provisional license holder fails to timely pay the renewal fee, to:

(1)-(3) Makes no change to these subdivisions.

(d) Makes no change to this subsection.

(d-1) Creates this subsection from existing text. Authorizes the provisional license holder, if the license is canceled under Subsection (d), rather than this subsection, to apply for reinstatement not later than the date the license would have expired if the license had been renewed, rather than not later than 18 months after the date of cancellation. Makes no further change to this subsection.

(d-2) Provides that a reinstated license expires on the date the license would have expired if the license had been timely renewed.

(d-3) Prohibits a provisional license holder from working as a funeral director or embalmer while the license is suspended or canceled.

SECTION 7. Amends Subchapter G, Chapter 651, Occupations Code, by adding Section 651.3055, as follows:

Sec. 651.3055. REAPPLICATION FOR PROVISIONAL LICENSE. (a) Authorizes a person who does not complete the provisional license program within the prescribed period to reapply for a provisional license.

(b) Requires a person who reapplies for a provisional license to comply with the requirements to Section 651.303 (Provisional License Program). Prohibits casework performed under a previous provisional license from being counted toward the requirements for the new provisional license. Authorizes TFSC to adopt rules to allow casework performed under a previous provisional license to transfer to a new provisional license if the license holder requests a hardship exemption.

(c) Authorizes a person to reapply for a provisional license under this section only once.

SECTION 8. Repealer: Sections 651.303(b) (requiring TFSC to by rule define the terms of employment for a provisional license holder) and (c) (requiring that the term of the provisional license program be at least 12 consecutive months but not more than 24 consecutive months), Occupations Code.

Repealer: Section 651.304(e) (requiring TFSC by rule to prescribe reporting requirements for provisional license holders), Occupations Code.

Repealer: Sections 651.305(e) (authorizing a provisional license to be renewed after a prescribed period of time) and (f) (relating to the requirements for reinstating a provisional license), Occupations Code.

SECTION 9. Effective date: September 1, 2015.