

Texas Board of Professional Engineers and Land Surveyors

Guidelines for Applicants, Licensees, and Registrants with Criminal Convictions

Approved May 11, 2023

These guidelines are issued by the Texas Board of Professional Engineers and Land Surveyors (TBPELS) pursuant to the Texas Occupations Code, § 53.025(a).

These guidelines describe the process by which TBPELS determines whether a criminal conviction renders an applicant, licensee, or registrant an unsuitable candidate for the license or registration, or whether a conviction warrants revocation or suspension of a license or registration previously granted. These guidelines present the general factors that are considered in all cases, and also the reasons why particular crimes are considered to relate to each type of license and registration issued by TBPELS.

I. Agency's process

Applications for licensure as a Professional Engineer (PE) and registration as a Registered Professional Land Surveyor (RPLS) require the applicant to provide information about criminal convictions. TBPELS's Licensing and Registration Department performs a criminal background check on each Professional Engineer (PE) and Registered Professional Land Surveyor (RPLS) application filed. This background check is done through the Criminal History Record Check (CHRC) process utilizing fingerprint background checks. (LINK) The CHRC provides criminal background information from both the Texas Department of Public Safety (DPS) system as well as the Federal Bureau of Investigation (FBI).

If the application materials or the CHRC check reveals a conviction that warrants additional review, licensing staff will review the conviction against the criminal history policy and follow the processes outlined in Board Rules §133.85 for PE applicants and §134.85 for RPLS applicants.

If a conviction meets the requirements of the guidelines, pursuant to §133.85 and §134.85 (relating to - Additional Review of and Action on Applications) applicants will be referred to the Licensing Committee. The Licensing Committee may obtain additional information and make recommendations for final action. The Licensing Committee may consider applications subject to Occupations Code Ch. 53 and cases in which any of the following conditions apply:

1. Any criminal convictions discovered by staff through the CHRC that were not reported in the application materials submitted by the applicant.
2. The direct relationship of the offense to the duties and responsibilities of a Professional Engineer or Registered Professional Land Surveyor in Texas.
3. Multiple misdemeanor or felony judgments that occurred within 10 years of the date of application that indicate a pattern of unethical behavior.
4. Any felony judgement related to the duties and responsibilities of a Professional Engineer or Registered Professional Land Surveyor for which the date of completion and resolution of the terms is within 10 years of the date of application.

If a person received a judgment or a deferred adjudication and has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license, then the board will follow Occupations Code 53.021(d). An application may be placed in a hold status and processing may resume after the court requirements have been completed and the application updated.

No currently incarcerated individual is eligible to obtain or renew a license or registration. A person's license or registration will be automatically revoked by operation of law upon the person's imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory suspension.

For individuals who are already licensed or registered when TBPELS discovers a criminal conviction, the process is essentially the same as that described above. A conviction discovered by licensing staff, Compliance & Enforcement staff, or any other TBPELS employee is referred to the Compliance & Enforcement Division. If the Compliance & Enforcement Department finds, after investigation, that the conviction warrants taking action on the license or registration, a proposed Notice of Violation letter and Consent Order is issued to the license or registration holder. Depending on the response to the Notice of Violation and Consent Order, the processes outlined in Chapter 139, Subchapter C, relating to Enforcement Proceedings are followed. The Board ultimately decides whether any action should be taken against the license or registration.

Subject to the requirements of Texas Occupations Code Chapter 53, Subchapter D, a person who has reason to believe that the person may be ineligible for a license, due to conviction or deferred adjudication for a felony or misdemeanor offense, may request the Board to issue a criminal history evaluation letter regarding the prospective applicant's potential eligibility for a license. The person may request such a letter, in a format prescribed by the Board, before applying for a license, enrolling in an educational program that prepares a person for initial license or applying to take a licensing exam. The request must state the basis for the person's potential ineligibility. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for a license.

II. Responsibilities of the applicant

The applicant has the responsibility, to the extent possible, to obtain and provide to the agency a summary of the events related to the conviction, legal documents related to the conviction, any documents related to the disposition and resolution of the conviction, and other supporting documents that may be required by the board.

III. General factors

The Board may suspend or revoke a license, disqualify a person from receiving a license or registration, or deny to a person the opportunity to take a licensing or registration examination on the grounds that a person has been convicted of an offense, as addressed in Chapter 53 of the Texas Occupations Code.

In deciding whether a criminal conviction should be grounds to deny, revoke, or take other enforcement action on a license or registration, the following factors are considered in all cases to determine whether the conviction directly relates to the duties and responsibilities of engineering or land surveying:

- the nature and seriousness of the crime;
- the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the applicant previously had been involved;
- the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation;
- any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

In determining the fitness of an applicant or license holder who has been convicted of a crime, the board will also consider the following in deciding whether to take board action:

- the extent and nature of the person's past criminal activity;
- the age of the person when the crime was committed;
- the amount of time that has elapsed since the person's last criminal activity;
- the conduct and work activity of the person before and after the criminal activity;
- evidence of rehabilitation or rehabilitative effort while incarcerated or following release;
- evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- other evidence of the person's fitness, including letters of recommendation.

IV. Relation of crimes to specific licenses and registrations issued by TBPELS

These guidelines reflect the most common or well-known categories of crimes, and their relation to specific license types. These guidelines are not intended to be an exclusive listing, i.e. they do not prohibit TBPELS from considering crimes not listed herein. After due consideration of the circumstances of the criminal act and the general factors listed above, TBPELS may find that a conviction not described herein renders a person unfit to hold a license.

In addition to the specific crimes listed below, multiple violations of any criminal statute should always be reviewed, for any license or registration. Multiple violations may reflect a pattern of behavior that renders the applicant unfit or not suited for the license. The board may give extra weight to multiple misdemeanor or felony convictions if any one of them occurred within 10 years of the date of application as they indicate a pattern of unethical behavior, lack of character, or suitability for licensure or registration.

A. ENGINEERS

Pursuant to Texas Occupations Code §53.025(a), the Board considers that the following crimes, which involve a lack of honesty, integrity, fidelity, or the exercise of good judgement, and other crimes not listed here, that involve the above-listed characteristics, directly relate to the practice of engineering due to the adverse impact each of these crimes has on the special trust and ethical duties a Professional Engineer owes to the client and the public.

1. Any crime that involves a disregard for the health, safety, or welfare of the general public or individuals.

Reason: Licensees are directly involved with buildings, infrastructure, and other systems in the built environment and entrusted with safe and competent engineering practice. Unsafe engineering can have a significant impact on health, safety, and welfare of the public.

2. Violent crime against a person, including such as homicide, kidnapping, assault, crimes involving prohibited sexual conduct, or crimes involving children or elderly persons as victims.

Reason: Licensees have direct contact with persons at residences and businesses in situations that have potential for confrontational behavior. A person with a predisposition for a violent response would pose a risk to the public.

3. Any crime of which theft, fraud, or deceit is an essential element or crimes involving financial or other loss for a client(s) or the public, including crimes against property such as theft or burglary.

Reason: Licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for designs, reports, estimates, and services. Licensees have access to private residences and businesses, where they may come into direct contact with unattended property. A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

4. Any crime related to property violations or trespassing.

Reason: A PE often has access to private or public property and a surveyor needs to follow all applicable laws, rules, and regulations related to access and activities on the property of others.

5. Any crime that demonstrates a lack of professional judgment expected of a Professional Engineer, including a crime involving drugs or alcohol.

Reason: Licensees need to have the trust of the public and honesty, integrity, fidelity, or the exercise of good judgement are critical to the ethical practice of professional engineering. Professional judgement and ability to follow laws, rules, codes, and ordinances is an expectation of the public.

B. SURVEYORS

Pursuant to Texas Occupations Code §53.025(a), the Board considers that the following crimes, which involve a lack of honesty, integrity, fidelity, or the exercise of good judgement, and other crimes not listed here, that involve the above-listed characteristics, directly relate to the practice of land surveying due to the adverse impact each of these crimes has on the special trust and ethical duties a Registered Professional Land Surveyor owes to the client and the public.

1. Any crime that involves a disregard for the health, safety, or welfare of the general public or individuals.

Reason: Registrants are directly involved with property, infrastructure, and other systems in the built environment and entrusted with safe and competent land surveying practice. Incorrect or unsafe surveying can have a significant impact on health, safety, welfare, and property of the public.

2. Violent crime against a person, including such as homicide, kidnapping, assault, crimes involving prohibited sexual conduct, or crimes involving children or elderly persons as victims.

Reason: Registrants have direct contact with persons at residences and businesses in situations that have potential for confrontational behavior. A person with a predisposition for a violent response would pose a risk to the public.

3. Any crime of which theft, fraud, or deceit is an essential element or crimes involving financial or other loss for a client(s) or the public, including crimes against property such as theft or burglary.

Reason: Registrants have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for surveys, plats, reports, and services. Registrants have access to private property, residences, and businesses, where they may come into direct contact with unattended property. A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

4. Any crime related to property violations or trespassing.

Reason: An RPLS often has access to private or public property and a surveyor needs to follow all applicable laws, rules, and regulations related to access and activities on the property of others.

5. Any crime that demonstrates a lack of professional judgment expected of a Registered Professional Land Surveyor, including a crime involving drugs or alcohol.

Reason: Registrants need to have the trust of the public and honesty, integrity, fidelity, or the exercise of good judgement are critical to the ethical practice of professional land surveying. Professional judgement and ability to follow laws, rules, codes, and ordinances is an expectation of the public.