



## GENERAL STATUTES COMMISSION

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### MEMORANDUM

**To:** House Judiciary 1  
**From:** General Statutes Commission  
**Re:** HB 938 (GSC Moral Turpitude/Occupational Licensure)  
**Date:** May 6, 2024

#### General Comments

This PCS, recommended by the General Statutes Commission, addresses direct conflicts between individual boards' licensure statutes and G.S. 93B-8.1's prohibitions and requirements regarding the use of criminal history records. The goal of the PCS is to remove conflict within the General Statutes without disrupting individual board's licensure statutes. As compared to the bill, this PCS makes a correction to the long title and updates definitions in G.S. 93B-1, Section 33 of the PCS, as requested by the Private Protective Services Board and Alarm Systems Licensing Board.

While G.S. 93B-8.1 currently applies solely to an applicant for initial licensure, individual boards' licensure statutes do not tend to distinguish between denial of an initial applicant and adverse action against an existing licensee. This results in complications when attempting to conform individual boards' licensure statutes to G.S. 93B-8.1 in a coherent way. For this reason, the PCS would also amend G.S. 93B-8.1 itself to add a definition for "deny licensure" so that the term includes refusal to issue a license, refusal to renew a license, and revocation of a license.

In addition to publishing all its drafts online, the General Statutes Commission circulated a draft to every North Carolina occupational licensing board or State agency licensing board that has a statute changed by the draft. The included boards are as follows: Department of Transportation, Commissioner of Banks, Department of Insurance, Secretary of State, Alarm Systems Licensing Board, Board of Architecture and Registered Designers, Auctioneers Commission, Board of Examiners of Electrical Contractors, Board of Examiners for Engineers and Surveyors, Medical Board, Board of Dental Examiners, Board of Environmental Health Specialists Examiners, Addictions Specialist Professional Practice Board, Board of Examiners in Optometry, State Board of Chiropractic Examiners, Veterinary Medical Board, State Board of Podiatry Examiners, Board of Opticians, Marriage and Family Therapy Board, Board of Occupational Therapy, Board of Physical Therapy Examiners, Psychology Board, Board of Licensed Clinical Mental Health Counselors, Board of Dietetics/Nutrition, Board of Examiners of Fee-Based Pastoral Counselors, Respiratory Care Board, Behavior Analysis Board, Social Work Certification and Licensure Board, Real Estate Commission, Hearing Aid Dealers and Fitters, Appraisal Board, and Department of Agriculture.

There is no known opposition to this PCS.

#### Background

S.L. 2019-91 amended G.S. 93B-8.1 regarding how boards may use criminal history records. Under current law, G.S. 93B-8.1 prohibits boards from denying an applicant a license based on a conviction, unless the crime is directly related to the duties of a licensee or is violent or sexual in

nature. This is true whether the crime is a misdemeanor or felony. A board cannot under any circumstances deny licensure based on a determination that a conviction is for a crime of moral turpitude. G.S. 93B-8.1 also contains affirmative requirements for boards, such as a requirement that boards consider certain factors before denying licensure based on a criminal conviction.

Current statutes specific to numerous boards grant authority to those boards to take myriad types of disciplinary action on the ground that a conviction is for a crime of moral turpitude, including denial, suspension, and revocation of licensure, as well as censure, probation, and other disciplinary measures, depending on the board. While S.L. 2019-91 amended G.S. 93B-8.1, which applies to all occupational and State agency licensing boards, there have been no corresponding amendments to any of these individual board statutes.

Throughout this undertaking, the General Statutes Commission intended to be as consistent as possible. To that end, unless a specific statute merited otherwise, this PCS reflects the following principles:

1. Amend only statutes with directly conflicting "moral turpitude" language.
  - This PCS includes only statutes that refer to "moral turpitude." Other individual board's licensure statutes may address discipline for criminal behavior in general but if they do not specifically refer to crimes of moral turpitude, they are not within the scope of this PCS.
2. Focus solely on the area of the statute containing the conflicting language.
  - Typically, the General Statutes Commission thoroughly updates and modernizes the entire text of any G.S. section included in its recommended bills. This PCS, however, only modifies the specific subunits of the statute requiring a conforming change.
3. Make necessary amendments in the simplest and most unobtrusive way possible.
  - When addressing a conflict by adding language, this PCS mirrors the language existing in the statute, to the degree practicable.
  - To signal additional requirements of G.S. 93B-8.1, such as the requirement that a board consider specific factors before denying a license based on any conviction, this PCS simply adds a cross-reference to G.S. 93B-8.1. For ease of cross-reference research, cross-references to G.S. 93B-8.1 are generally placed as close as possible to the applicable criminal language in the statute.
4. Deviate from these principles only when there is a reason to do so based on the specific statute being amended.
  - As common in legal drafting, characteristics of individual board's statutes often merited adaptation of these principles. (For example, a cross-reference to G.S. 93B-8.1 is sometimes placed with an existing cross-reference to other law for greater fluidity in the statute, rather than being placed next to the criminal reference.)

### **Specific Comments**

**Section 1** amends G.S. 93B-8.1 as follows:

- In subsection (a), adds a definition for "deny licensure" so that the term is defined to include refusal to issue a license, refusal to renew a license, and revocation of a license. In this subsection, the PCS also removes unnecessary language in another definition.
- In subsection (b), makes conforming changes pursuant to the new definition and for greater internal consistency with existing defined terms.
- In subsection (b1), makes conforming changes pursuant to the new definition, makes stylistic changes, and removes unnecessary language.

- In subsection (b2), makes conforming changes pursuant to the new definition.
- In subsection (b3), makes a conforming change pursuant to the new definition.
- In subsection (b4), replaces legalese with plain English.
- In subsection (b6), removes unnecessary language, replaces terms for greater internal consistency within this subsection, and makes conforming changes pursuant to the new definition.
- In subsection (b8), removes unnecessary language and replaces terms for greater internal consistency within the subsection and with defined terms in the statute.

**Section 2(a)** amends G.S. 20-79.2 to make conforming changes pursuant to G.S. 93B-8.1 and G.S. 20-294, as amended by Section 2(b) of the PCS.

**Section 2(b)** amends G.S. 20-294 to make conforming changes pursuant to G.S. 93B-8.1, fix a cross-reference, replace legalese with plain English, and reword for greater clarity.

**Section 3(a)** amends G.S. 53-244.050 to make a conforming change pursuant to G.S. 93B-8.1 and modernize the format of a list.

**Section 3(b)** amends G.S. 53-244.060 to make conforming changes pursuant to G.S. 93B-8.1, modernize the format of a list, and replace legalese with plain English.

**Section 4(a)** amends G.S. 58-33-46 to make conforming changes pursuant to G.S. 93B-8.1 and reword for greater clarity.

**Section 4(b)** amends G.S. 58-58-215 to make conforming changes pursuant to G.S. 93B-8.1 and add lead-in language to a list.

**Section 4(c)** amends G.S. 58-71-80 to make conforming changes pursuant to G.S. 93B-8.1.

**Section 4(d)** amends G.S. 143-151.56 to make conforming changes pursuant to G.S. 93B-8.1.

**Section 5(a)** amends G.S. 66-234 to make a conforming change pursuant to G.S. 93B-8.1, replace legalese with plain English, and fix punctuation.

**Section 5(b)** amends G.S. 66-237 to make a conforming change pursuant to G.S. 93B-8.1, replace legalese with plain English, make language gender-neutral, and modernize the format of a list.

**Section 5(c)** amends G.S. 78C-89 to make a conforming change pursuant to G.S. 93B-8.1.

**Section 5(d)** amends G.S. 78C-90 to make conforming changes pursuant to G.S. 93B-8.1 and add lead-in language to a list.

**Section 6(a)** amends G.S. 74D-2 to make a conforming change pursuant to G.S. 93B-8.1, remove unnecessary language, split up a sentence for greater clarity, fix an internal citation, reword for greater clarity, and add an Oxford comma.

**Section 6(b)** amends G.S. 74D-6 to make conforming changes pursuant to G.S. 93B-8.1, add a cross-reference, modernize the format of a list, fix a relative pronoun, replace legalese with plain English, remove unnecessary language, split up a sentence for greater clarity, and reword for greater clarity.

**Section 6(c)** amends G.S. 74D-10 to make conforming changes pursuant to G.S. 93B-8.1 and add lead-in language to a list.

**Section 7** amends G.S. 83A-15 to make conforming changes pursuant to G.S. 93B-8.1, add an Oxford comma, replace legalese with plain English, remove unnecessary language, and add lead-in language to a list.

**Section 8(a)** amends G.S. 85B-3.2 to make conforming changes pursuant to G.S. 93B-8.1.

**Section 8(b)** amends G.S. 85B-4 to make conforming changes pursuant to G.S. 93B-8.1, add lead-in language to a list, and fix punctuation.

**Section 8(c)** amends G.S. 85B-8 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, and fix punctuation.

**Section 9** amends G.S. 87-47 to make a conforming change pursuant to G.S. 93B-8.1.

**Section 10** amends G.S. 89C-21 to make conforming changes pursuant to G.S. 93B-8.1, fix capitalization in the catchline, and remove unnecessary language.

**Section 11** amends G.S. 90-14 to make conforming changes pursuant to G.S. 93B-8.1, fix capitalization in the catchline, replace legalese with plain English, remove unnecessary language, make stylistic changes for greater clarity, and fix punctuation.

**Section 12(a)** amends G.S. 90-30 to make a conforming change pursuant to G.S. 93B-8.1, remove language that is duplicative of G.S. 90-41, which is amended by Section 12(b) of this PCS, remove unnecessary or duplicative language, make stylistic changes for greater clarity, add tabulation for greater clarity, replace legalese with plain English, split up a sentence for greater clarity, and add an Oxford comma. As requested by the Board of Dental Examiners and as included in a version of Senate Bill 382, 2023 Regular Session, that passed each chamber of the General Assembly, this section also adds language to allow clinical examinations that use either humans or an approved alternative method.

**Section 12(b)** amends G.S. 90-41 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, fix capitalization, replace a term for greater clarity, remove unnecessary language, add lead-in language to a list, and make stylistic changes for greater clarity.

**Section 12(c)** amends G.S. 90-229 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, fix capitalization, add a missing word, replace a term for greater clarity, and add lead-in language to a list.

**Section 13(a)** amends G.S. 90-102.1 to make conforming changes pursuant to G.S. 93B-8.1, move language from a subdivision of a list to the lead-in of the list and modernize the format of the list, make stylistic changes, replace legalese with plain English, add a subsection catchline for internal consistency, add a cross-reference, add lead-in language to a list, and remove unnecessary language.

**Section 13(b)** amends G.S. 90A-64 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, fix punctuation, and remove unnecessary language.

**Section 14** amends G.S. 90-113.44 to make conforming changes pursuant to G.S. 93B-8.1 and add lead-in language to a list.

**Section 15** amends G.S. 90-121.2 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, add an Oxford comma, replace legalese with plain English, remove unnecessary language, replace a term for greater clarity, and make a stylistic change.

**Section 16** amends G.S. 90-154 to make conforming changes pursuant to G.S. 93B-8.1 and fix the format of internal citations.

**Section 17** amends G.S. 90-187.8 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, and replace legalese with plain English.

**Section 18** amends G.S. 90-202.8 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, replace a term for greater clarity, remove unnecessary language, and add lead-in language to a list.

**Section 19(a)** amends G.S. 90-210.25 to make conforming changes pursuant to G.S. 93B-8.1, fix the catchline to better reflect the substance of the statute, add an Oxford comma, replace legalese with plain English, make stylistic changes, remove unnecessary language, and fix an internal citation.

**Section 19(b)** amends G.S. 90-210.69 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, and reorganize and reword for greater clarity.

**Section 19(c)** amends G.S. 90-210.123 to make conforming changes pursuant to G.S. 93B-8.1, reword for greater clarity, make a stylistic change, and remove unnecessary language.

**Section 20** amends G.S. 90-249.1 to make conforming changes pursuant to G.S. 93B-8.1.

**Section 21** amends G.S. 90-270.60 to make conforming changes pursuant to G.S. 93B-8.1, add tabulation for greater clarity, and remove duplicative language.

**Section 22** amends G.S. 90-270.76 to make conforming changes pursuant to G.S. 93B-8.1, add an Oxford comma, and fix a relative pronoun.

**Section 23** amends G.S. 90-270.103 to make conforming changes pursuant to G.S. 93B-8.1 and replace legalese with plain English.

**Section 24** amends G.S. 90-270.148 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, replace legalese with plain English, replace a term for greater clarity, fix an internal citation, make stylistic changes, add tabulation for greater clarity, and remove duplicative language.

**Section 25** amends G.S. 90-340 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, add tabulation for greater clarity, and remove duplicative language.

**Section 26** amends G.S. 90-363 to make a conforming change pursuant to G.S. 93B-8.1 and add an Oxford comma.

**Section 27** amends G.S. 90-390 to make conforming changes pursuant to G.S. 93B-8.1 and add lead-in language to a list.

**Section 28** amends G.S. 90-633 to make conforming changes pursuant to G.S. 93B-8.1.

**Section 29** amends G.S. 90-659 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, and add lead-in language to a list.

**Section 30** amends G.S. 90-742 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, replace a term for greater clarity, add tabulation for greater clarity, remove duplicative language, and make a stylistic change.

**Section 31** amends G.S. 90B-11 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, add tabulation for greater clarity, remove duplicative language, and make a stylistic change.

**Section 32(a)** amends G.S. 93A-6 to make conforming changes pursuant to G.S. 93B-8.1, modernize the format of a list, fix relative pronouns, fix the format of internal citations, and remove unnecessary language.

**Section 32(b)** amends G.S. 93A-38 to make conforming changes pursuant to G.S. 93B-8.1, add Oxford commas, replace legalese with plain English, and remove unnecessary language.

**Section 32(c)** amends G.S. 93A-54 to make conforming changes pursuant to G.S. 93B-8.1, replace legalese with plain English, remove unnecessary language, and fix a relative pronoun.

**Section 33** amends G.S. 93B-1 as follows:

- In subdivision (1), fixes a relative pronoun and makes language gender-neutral.
- In subdivision (2), fixes relative pronouns and punctuation.
- In subdivision (3), fixes incorrect cross-references, fixes a relative pronoun, fixes punctuation, updates professions licensed by the Private Protective Services Board and adds the Alarm Systems Licensing Board to a nonexclusive list at the request of those Boards, and replaces terms for greater consistency within the General Statutes.

**Section 34** amends G.S. 93D-13 to make conforming changes pursuant to G.S. 93B-8.1 and remove unnecessary language.

**Section 35** amends G.S. 93E-1-12 to make conforming changes pursuant to G.S. 93B-8.1, remove unnecessary language, and fix a relative pronoun.

**Section 36(a)** amends G.S. 106-65.26 to make conforming changes pursuant to G.S. 93B-8.1 and correct spelling.

**Section 36(b)** amends G.S. 106-610 to make conforming changes pursuant to G.S. 93B-8.1 and reword for greater clarity.

The **final section** provides that this act becomes effective October 1, 2024.