

## Board Resolution and Proposed Amendment to Rule §35.42

Adopted by Private Security Board, April 8, 2009

*Rule 35.42 is to be enforced as follows, pending consideration of the proposed amendments at the next public meeting:*

(a) Pursuant to the requirement of Section 1702.113(b), the following Class B misdemeanor offenses (as reflected in the Texas Penal Code) are disqualifying for five years from the date of conviction:

- 22.01 Assault (by threat or offensive contact with sports participant)
- ~~22.07 Terroristic threat~~
- 25.04 Enticing a child from lawful custody
- 31.03 Theft (\$50 to \$500)
- 32.41 Issuance of bad check (for child support)
- 32.45 Misapplication of fiduciary property
- 32.46 Securing execution of a document by deception
- 37.08 False report to police officer
- 37.12 False identification as peace officer
- 39.02 Abuse of official capacity
- 39.05 Failure to report death of prisoner
- 42.01 Disorderly conduct (firearm in public place)
- 42.02 Riot
- 42.061 Silent or Abuse Calls to 911 Service

(b) Pursuant to the requirement of Section 1702.113(b), the following Class B misdemeanors (as reflected in the Texas Penal Code) are disqualifying for five years from the date of conviction, subject to the discretionary authority of the Manager (as delegated by the Board) to consider mitigating circumstances:

- 21.08 Indecent exposure
- ~~22.07 Terroristic threat~~
- ~~28.03 Criminal Mischief (\$50-\$500)~~
- 30.05 Criminal Trespass (not habitation)
- 31.12 Theft of or tampering with multichannel video or information services (and conviction)
- 32.52 Fraudulent, Substandard or Fictitious Degree
- 33.02 Breach of computer security
- 33.A.02 Unauthorized use of telecommunications service (less than \$500)
- 33.A.04 Theft of telecommunications service (less than \$500)
- 38.02 Failure to identify (if a fugitive)
- 38.04 Evading arrest or detention
- 42.07 Harassment

(c) Class B misdemeanors not listed in subsections (a) or (b) are not disqualifying under Section 1702.113, except that:

- (1) Any unlisted offense that is substantially similar in elements to a listed offense is disqualifying in the same manner as the corresponding listed offense;
- (2) Any unlisted Class B misdemeanor offense that was an "attempted" Class A offense is disqualifying, subject to the discretionary review by the Bureau Manager;

- (3) Any unlisted offense that is classified as a Class B misdemeanor as a result of a reduction from a Class A misdemeanor is disqualifying, subject to the discretionary review by the Bureau Manager;
- (4) Subject to review by the Board at the next, regularly scheduled, public meeting, any unlisted offense in which either the elements of the offense or the circumstances surrounding the commission of the offense are such that the manager reasonably and in good faith believes that the Board would conclude that the offense should be disqualifying.