

BILL ANALYSIS

Senate Research Center
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S.B. 1738
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Despite the fact that, by law, a person who has completed deferred adjudication does not have a conviction, some state agencies and licensing entities and private sector employers treat deferred adjudication the same as conviction. There are numerous references in state law where this is done. Therefore, persons could be denied employment and occupational licenses on the basis of a non-conviction. It is estimated that about two million Texans have received deferred adjudication sentences.

As proposed, S.B. 1738 creates standards for persons who have completed deferred adjudication that would be considered by state licensing entities when reviewing applicants for licensing or employment.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.021, Occupations Code, by adding Subsections (c), (d), and (e), as follows:

(c) Prohibits a licensing authority, except as provided by Subsections (d) and (e), notwithstanding any other law, from considering a person to have been convicted of an offense for purposes of this section (Authority To Revoke, Suspend, Or Deny License) if, regardless of the statutory authorization, the person entered a plea of guilty or nolo contendere, the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court, and at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(d) Authorizes a licensing authority to consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if, after consideration of the factors described by Sections 53.022 (Factors In Determining Whether Conviction Relates To Occupation) and 53.023(a) (relating to certain factors to be considered in determining the fitness of an individual who has been convicted of a crime to perform duties of a licensed occupation), the licensing authority makes certain determinations about the threat the person poses.

(e) Provides that Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide law enforcement or public health or safety services.

SECTION 2. Effective date: upon passage or September 1, 2007.