

## **BILL ANALYSIS**

Senate Research Center  
81R5294 NC-D

H.B. 963  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Texas Board of Nurses uses a declaratory order process that allows the board to make decisions regarding an applicant's eligibility for licensure based on the applicant's criminal record before the applicant begins training. This process also assists in preventing prospective applicants from training for an occupation for which they may be ineligible due to their criminal background.

H.B. 963 requests that state licensing authorities create a similar process by which applicants with a criminal background may request a criminal history evaluation letter to determine the applicant's eligibility for licensure prior to beginning occupational training or investing in a licensing examination.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to a department, commission, board, office, or other agency of the state that issues a license to practice or engage in a particular business, profession, or occupation in SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 53, Occupations Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY**

Sec. 53.101. DEFINITIONS. Defines "license" and "licensing authority."

Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION LETTER. (a) Authorizes a person to request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person is enrolled or planning to enroll in an educational program that prepares a person for initial license or is planning to take an examination for an initial license, and has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) Requires that the request state the basis for the person's potential ineligibility.

Sec. 53.103. AUTHORITY TO INVESTIGATE. Provides that a licensing authority has the same powers to investigate a request submitted under this subchapter and the requestor's eligibility that the authority has to investigate a person applying for a license.

Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER. (a) Requires a licensing authority, if the licensing authority determines that a ground for ineligibility does not exist, to notify the requestor in writing of the authority's determination on each ground of potential ineligibility.

(b) Requires a licensing authority, if the licensing authority determines that the requestor is ineligible for a license, to issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility. Provides that in the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is

issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

(c) Requires a licensing authority to provide notice under Subsection (a) or issue a letter under Subsection (b) not later than the 90th day after the date the authority receives the request.

Sec. 53.105. FEES. Authorizes a licensing authority to charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Requires that fees adopted by a licensing authority under this subchapter be in an amount sufficient to cover the cost of administering this subchapter.

SECTION 2. Requires a department, commission, board, office, or other agency of the state that issues a license to practice or engage in a particular business, profession, or occupation, not later than January 1, 2010, to adopt rules necessary to administer Subchapter D, Chapter 53, Occupations Code, as added by this Act.

SECTION 3. Effective date: upon passage or September 1, 2009.