

BILL ANALYSIS

Senate Research Center
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S.B. 223
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In today's society, more and more employers routinely use criminal background checks as a part of the employment screening process and many people are denied employment and state licensure on the basis of a criminal conviction. Currently, people who have successfully completed deferred adjudication are also affected even though they do not technically have a criminal conviction. In Texas, a person who has committed a violent crime or an offense that has significant financial implications to the victim may be pardoned for that crime by the governor. However, for a lesser offense for which the courts have placed a defendant on deferred adjudication, the governor has no power, constitutionally or statutorily, to issue a pardon.

In separate rulings by the Texas Attorney General, the release and dismissal of charges upon completion of deferred adjudication releases the defendant from "all penalties and disabilities resulting from the offense." Opinion DM-349 (1995) goes on to say that since the charges are subsequently dismissed upon completion of a deferred adjudication sentence, there is no conviction to be pardoned. Although people who accepted deferred adjudication did so under the impression that they would not have a permanent criminal record, the majority of criminal history records from deferred adjudication dispositions are readily available to public and private entities. The appearance of a criminal history record negatively impacts people during the job search process and some employers have released employees post-hire upon discovery of the record of an offense dismissed after completion of a deferred adjudication sentence.

As proposed, S.B. 223 authorizes the Governor of Texas to pardon an offense for which a person has successfully completed a deferred adjudication.

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 Article 48.01, Code of Criminal Procedure, as follows:

Art. 48.01. GOVERNOR MAY PARDON. Requires the governor to have the power, in all criminal cases, except treason and impeachment, after conviction or successful completion of a term of deferred adjudication community supervision, on the written signed recommendation and advice of the Board of Pardons and Paroles (BPP), or a majority thereof, to grant reprieves and commutations of punishments and pardons; and upon the written recommendation and advice of the majority of BPP, he shall have the power to remit fines and forfeitures.

SECTION 2. Effective date: September 1, 2009, contingent upon approval by the voters of the constitutional amendment relating to authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision.