

BILL ANALYSIS

Senate Research Center
83R22108 MAW-F

H.B. 1659
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Criminal Justice
5/14/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties have raised concerns regarding certain licenses being denied to individuals who have completed deferred adjudication and contend that these individuals deserve an opportunity to practice certain occupations, trades, and professions for which a license is required.

H.B. 1659 is intended to provide a fair balance between protecting the public and allowing people to work. Specifically, the bill limits the consideration of a deferred adjudication in the suspension or denial of an occupational license to any offense that requires registration as a sex offender; any offense that would prohibit the person from holding the license; or up to five years after the completion of the period of deferred adjudication, unless an order of nondisclosure regarding the offense has been issued by a court.

H.B. 1659 amends current law relating to certain actions taken by certain licensing authorities regarding a license holder or applicant who received deferred adjudication for certain offenses.

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 51.356, Occupations Code, as follows:

Sec. 51.356. DEFERRED ADJUDICATION; LICENSE SUSPENSION, LICENSE REVOCATION, OR DENIAL OR REFUSAL TO RENEW LICENSE. (a) Authorizes the Texas Commission of Licensing and Regulation (TCLR) to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the Texas Department of Licensing and Regulation (TDLR) if:

(1) the person holding or seeking the license received deferred adjudication for:

(A) an offense for which the person would be required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if the person completed the period of deferred adjudication less than five years before the date the person applied for the license, unless an order of nondisclosure regarding the offense has been issued under Section 411.081 (Application of Subchapter), Government Code, or a conviction for the offense would make the person ineligible for the license; and

(2) TCLR determines that the deferred adjudication makes the person unfit for the license.

(b) Requires TCLR, in making a determination under Subsection (a)(2), rather than under Subsection (a), to consider the factors set forth in Sections 53.022 (Factors in Determining Whether Conviction Relates to Occupation) and 53.023 (Additional Factors for Licensing Authority to Consider) and the guidelines issued by TDLR under Section 53.025 (Guidelines).

Deletes existing text authorizing TCLR to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by TDLR if TCLR determines that a deferred adjudication makes the person holding or seeking the license unfit for the license.

SECTION 2. Amends Section 53.021(d), Occupations Code, as follows:

(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) (relating to prohibiting a licensing authority from considering a person to have been convicted of an offense for the purposes of this section if certain conditions are met) if:

(1) the person was charged with:

(A) an offense that would require the person to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if the person completed the period of supervision less than five years before the date the person applied for the license, unless an order of nondisclosure regarding the offense has been issued under Section 411.081, Government Code, or a conviction for the offense would make the person ineligible for the license; and

(2) after consideration of the factors described by Sections 53.022 and 53.023(a) (relating to requiring a licensing authority to consider certain factors), the licensing authority makes certain determinations. Makes nonsubstantive changes.

SECTION 3. Provides that the change in law made by this Act applies to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the effective date of this Act or an application filed or a disciplinary proceeding commenced on or after that date.

SECTION 4. Effective date: September 1, 2013.