

BILL ANALYSIS

C.S.H.B. 2072
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the criminal history of certain license holders in the massage therapy industry. Interested parties assert that, due to the nature of these occupations, greater precaution should be taken to prevent future crimes, such as sexual assault, against clients. C.S.H.B. 2072 seeks to address these concerns by providing for a criminal history record information check of such license holders and applicants for such licenses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2072 amends the Occupations Code to remove provisions relating to criminal background checks applicable to an applicant for a license related to massage therapy. The bill instead requires the Texas Department of Licensing and Regulation (TDLR) to require that an applicant for such a license submit a complete and legible set of fingerprints, on a form prescribed by TDLR, to TDLR or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the FBI. The bill prohibits TDLR from issuing a license to a person who does not comply with that requirement and requires TDLR to conduct a criminal history record information check of each license applicant using certain information. The bill authorizes TDLR to enter into an agreement with DPS to administer a criminal history record information check required by the bill and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the check. The bill removes a provision making an applicant ineligible for a license if the applicant, in the five years preceding the date of the application, has been finally convicted of a misdemeanor involving moral turpitude or a felony.

C.S.H.B. 2072 requires an applicant renewing a license relating to massage therapy to submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by the bill's license issuance provisions. The bill prohibits TDLR from renewing the license of a person who does not comply with that requirement and exempts from that requirement a license holder who has previously submitted fingerprints for the initial issuance of the license or as part of a prior license renewal. These bill provisions expire August 1, 2023.

C.S.H.B. 2072 applies only to an application for the issuance or renewal of a license submitted on or after August 1, 2018. The bill requires the Texas Commission of Licensing and Regulation, not later than April 1, 2018, to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2072 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 455.1525(b), Occupations Code, is amended to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 455.1525, Occupations Code, is amended to read as follows:

Sec. 455.1525. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE [BACKGROUND CHECKS].

(a) The department shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation [On receipt of an application for a license under this chapter, the department shall conduct a criminal background check on the applicant].

(b) The department may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the

(b) An applicant is not eligible for a license under this chapter if the applicant, in the 10 [five] years preceding the date of the application, has been finally convicted of a misdemeanor involving moral turpitude or a felony.

No equivalent provision.

No equivalent provision.

SECTION 2. Section 455.1525, Occupations Code, as amended by this Act, applies only to an application for a license submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

costs incurred by the Department of Public Safety in conducting the criminal history record information check

~~[An applicant is not eligible for a license under this chapter if the applicant, in the five years preceding the date of the application, has been finally convicted of a misdemeanor involving moral turpitude or a felony].~~

SECTION 2. Subchapter D, Chapter 455, Occupations Code, is amended by adding Section 455.1605 to read as follows:

Sec. 455.1605. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 455.1525.

(b) The department may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 455.1525 for the initial issuance of the license; or

(2) this section as part of a prior license renewal.

(d) This section expires August 1, 2023.

SECTION 3. Not later than April 1, 2018, the Texas Commission of Licensing and Regulation shall adopt rules as necessary to implement Section 455.1525, Occupations Code, as amended by this Act, and Section 455.1605, Occupations Code, as added by this Act.

SECTION 4. Section 455.1525, Occupations Code, as amended by this Act, and Section 455.1605, Occupations Code, as added by this Act, apply only to an application for the issuance or renewal of a license submitted on or after August 1, 2018. An application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect
September 1, 2017.

SECTION 5. Same as introduced version.