

BILL ANALYSIS

C.S.H.B. 1342
By: Leach
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the barriers to eligibility for an occupational license faced by Texans who have been convicted of an offense within five years of license application, regardless of whether the offense is related to the occupation. C.S.H.B. 1342 seeks to enhance the opportunities to obtain gainful employment for these individuals who have been discharged from the sentence for certain offenses by prohibiting licensing authorities from revoking, suspending, or denying a license when the individual's offense history does not directly relate to the occupation at hand and requiring the authorities instead to consider whether the crime correlates to the duties and responsibilities of the license sought.

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. 1342 amends the Occupations Code to remove as grounds on which a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination the person's conviction of an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license. The bill includes as a factor the licensing authority is required to consider in determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation any correlation between the elements of a crime and the duties and responsibilities of the occupation. The bill includes as a factor a licensing authority, if the authority makes such a determination, is required to consider in determining whether to revoke, suspend, or deny a license evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision. The bill removes from those factors the specification that other evidence of the person's fitness includes certain letters of recommendation and repeals a requirement that a license applicant furnish proof of certain conduct in the form required by the licensing authority.

C.S.H.B. 1342 makes a person whose license has been revoked by order of the Texas Commission of Licensing and Regulation (TCLR) or the executive director of the Texas Department of Licensing and Regulation (TDLR) eligible to apply for a new license before the first anniversary of the date of the revocation if the revocation was based solely on the person's failure to pay an administrative penalty and the person has paid the administrative penalty in full or is paying the administrative penalty under a payment plan with TDLR and is in good standing

with respect to that plan.

C.S.H.B. 1342 authorizes TCLR or the executive director, as an alternative to denying, revoking, suspending, or refusing to issue or renew a license if the person holding or seeking the license received deferred adjudication for certain offenses, based on the person's criminal history or other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by TDLR, or under statutory provisions relating to the consequences of a criminal conviction, to issue a restricted license to an applicant for a license under the Air Conditioning and Refrigeration Contractor License Law or Texas Electrical Safety and Licensing Act. The bill authorizes TDLR to impose reasonable conditions on a holder of a restricted license, including requiring the license holder to do the following:

- limit the scope or location of the license holder's practice;
- be supervised; and
- report to TDLR, including notifying TDLR promptly of any change in the license holder's supervision.

The bill authorizes TDLR to include on the face of a license and in TDLR records a specified statement and to use a distinctive design for the restricted license. The bill requires a license holder who supervises a restricted license holder to use reasonable care to ensure that the license holder complies with any condition imposed under these provisions and authorizes TCLR or the executive director to impose an administrative penalty or other sanction on a restricted license holder or the supervising license holder for a violation of these provisions. The bill provides for the term of a restricted license and sets out provisions relating to the renewal and expiration of the license.

C.S.H.B. 1342 authorizes the alternative means of determining or verifying a person's eligibility for a license issued by TDLR to include accepting as sufficient evidence of such eligibility relevant education, training, or experience obtained while the person was imprisoned if the person meets the following criteria:

- previously held a license of the same type for which the person is applying and the license was revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision;
- has not been convicted of, placed on deferred adjudication for, or entered a plea of guilty or nolo contendere to certain offenses; and
- while imprisoned maintained a record of good behavior and successfully participated in a program acceptable to TDLR to prepare the person for reentry into the workforce in the occupation for which the person seeks a license or performed work on a regular basis in the occupation for which the person seeks a license.

C.S.H.B. 1342 prohibits a licensing authority from denying a person a license or the opportunity to be examined for a license because of the person's prior conviction of an offense unless the authority provides written notice to the person of the reason for the intended denial and allows the person not less than 30 days to submit any relevant information to the authority. The bill sets out the required content of the notice. The bill requires the state auditor, in collaboration with licensing authorities, to develop, not later than September 1, 2020, a guide of best practices for an applicant with a prior conviction to use when applying for a license and to publish the guide on the auditor's website and include a link to the guide on the authority's website and in each required notice and letter. The bill specifies that the notice a licensing authority is required to give if, because of the person's prior conviction of an offense, the authority suspends or revokes a license, denies a license, or denies the opportunity to be examined for a license includes any factors in determining whether the conviction directly relates to the applicable occupation or additional factors for a licensing authority to consider after determining that the conviction

directly relates to the occupation that served as the basis for the suspension, revocation, denial, or disqualification. The bill specifies that the required notice or letter by a licensing authority of the authority's determination of license eligibility includes any such factor considered that served as the basis for the suspension, revocation, denial, or disqualification. The bill sets out certain legislative intent and provides for the liberal construction of certain licensing provisions for purposes of that intent.

C.S.H.B. 1342 repeals Section 53.023(c), Occupations Code.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1342 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions relating to the eligibility for a license of a person whose license has been revoked, restricted licenses for an air conditioning and refrigeration contractor license or an electrical contracting license and includes the alternative means of determining or verifying a person's eligibility for a license issued by TDLR.

The substitute requires the state auditor, in collaboration with licensing authorities, to develop a guide of best practices for an applicant with a prior conviction to use when applying for a license and sets out requirements for the guide.

The substitute does not include a requirement that the notice by a licensing authority relating to the suspension, revocation, or denial of a license or the denial of the opportunity to be examined for a license based a prior conviction include any remedial actions or relevant circumstances the licensing authority would consider in a future determination but instead specifies that the notice include any factor considered in determining whether the conviction directly relates to the applicable occupation that served as the basis for the suspension, revocation, denial, or disqualification.