

- SUBJECT:** Requiring background checks for massage therapy licenses
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 10 ayes — T. King, Goldman, Geren, Guillen, Harless, Hernandez, K. King, Kuempel, Paddie, S. Thompson
- 0 nays
- 1 absent — Herrero
- WITNESSES:** For — None
- Against — None
- On — Jeoff Williams, Texas Department of Public Safety (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)
- BACKGROUND:** Occupations Code sec. 455.152 makes individuals ineligible for a massage therapy license for five years if they were convicted of or pled guilty or no contest to an offense related to human trafficking, prostitution, or another sexual offense.
- Interested parties note that increasing regulatory oversight of the massage therapy industry could limit sex and labor trafficking in the industry.
- DIGEST:** CSHB 1865 would change regulation of the massage therapy industry by amending massage therapy licensure eligibility requirements, requiring criminal background checks for licensure, requiring students to hold a permit, and requiring schools to submit monthly attendance and progress reports to the Texas Department of Licensing and Regulation (TDLR).
- Criminal background checks.** TDLR would be required to conduct a criminal history record check of each license applicant using fingerprints

the applicant would have to submit to TDLR or to the Department of Public Safety (DPS) and information made available to TDLR by DPS, the FBI, and any other criminal justice agency. TDLR could enter into an agreement with DPS to administer criminal history record information checks and could authorize DPS to collect fees from applicants to cover administrative costs incurred in conducting the checks.

If the applicant for a license were an entity, the applicant would have to submit fingerprints for each person who:

- held at least 10 percent of the entity's outstanding stock or more than \$25,000 of the entity's fair market value;
- had the controlling interest in the entity;
- had a direct or indirect participating interest through shares, stock, or otherwise of more than 10 percent of the profits, proceeds, or capital gains of the entity;
- was a member of the board of directors or other governing body; or
- served as an elected officer or general manager of the entity.

TDLR would be required, rather than allowed, to conduct a criminal background check for an individual who requested a license renewal.

Massage therapy license eligibility. A person who was convicted of, pled guilty or no contest to, or received deferred adjudication for an offense related to human trafficking, prostitution, or another sexual offense would be ineligible for a massage therapy license.

The bill would repeal a provision that exempted students from licensing requirements if they were providing massage therapy as part of an internship and were enrolled in a course of instruction.

Student permits. TDLR would have to require a student enrolled in massage school to hold a permit stating the student's name and the name of the school. The permit would have to be displayed in a reasonable manner at the school. TDLR would have to issue student permits to applicants who submitted an application for a student permit and any

required fee. An applicant for a student permit would have to submit an enrollment application to the department and satisfy other specified requirements.

Reports. Massage schools would be required to maintain monthly progress reports for each student in attendance. The report would have to include the daily attendance record for each student and the number of credit hours the student earned during the previous month. Schools would have to notify TDLR when a student completed the required number of hours of instruction and was eligible to take the appropriate examination.

Rulemaking and implementation. The Texas Commission of Licensing and Regulation would have to adopt rules to implement the bill by March 1, 2020. Students would have to comply with permitting requirements under the bill only if they were enrolled in a massage school on or after June 1, 2020.

The bill would apply only to license applications or renewals submitted on or after the effective date. By September 1, 2021, TDLR would have to obtain criminal history record information on each person who held a massage therapy license on the bill's effective date and who did not undergo a fingerprint-based criminal history record check on the initial license application. TDLR could suspend the license of any license holder who did not provide the required information.

The bill would take effect September 1, 2019, except for the massage school reporting requirements, which would take effect July 1, 2020.