

- SUBJECT:** Requiring criminal history record checks for massage therapists
- 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 — Amy Monsivais, El Paso County Attorney's Office; (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Steve Bresnen, El Paso County; Will Francis, National Association of Social Workers-Texas Chapter)
- Against — None
- On — (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)
- BACKGROUND:** Occupations Code sec. 455.1525 requires the Texas Department of Licensing and Regulation to conduct a criminal background check on massage therapy license applicants.
- Interested parties have noted that some establishments around the state claiming to offer massage therapy services have been reported to be connected with human trafficking operations and suggest that a lack of sufficient regulatory oversight may allow bad actors to take advantage of the system.
- DIGEST:** CSHB 2747 would require criminal history record information checks for all licensed massage therapists and license applicants; require massage establishments to post signs with information on human trafficking; and require massage therapy licenses to include a photograph of the therapist.

The bill also would prohibit anyone from residing on the premises of a massage establishment.

Criminal history record information checks. The Texas Department of Licensing and Regulation (TDLR) would have to require massage therapy license applicants to submit fingerprints to TDLR or the Department of Public Safety (DPS) for the purposes of obtaining criminal history record information from DPS and the FBI. TDLR could not issue a license to a person who did not submit fingerprints.

TDLR would have to conduct a criminal history record information check for each license applicant using fingerprints and any information provided by DPS, the FBI, and any other criminal justice agency.

TDLR could enter into an agreement with DPS to administer a criminal history background check and authorize DPS to charge the applicant a fee to cover the costs.

If the applicant was an entity, fingerprints would have to be submitted for each person who:

- personally or constructively held, including as the beneficiary of a trust, at least 10 percent of the entity's outstanding stock or more than \$25,000 of its fair market value;
- had controlling interest in the entity;
- had a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights were included, 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 of the entity; or
- served as an elected officer or general manager of the entity.

By September 1, 2021, TDLR would have to obtain criminal history record information for each person licensed as a massage therapist if that person had not undergone a fingerprint background check on their initial

license application. TDLR could suspend the license of a person who did not provide the necessary information.

Massage establishments would be prohibited from allowing any individual, including a student, license holder, or employee, to reside on the premises unless the establishment was exempt from the license requirement.

Signage. Posted massage therapy licenses would have to include a photograph of the massage therapist. Massage establishments would have to be in compliance with this requirement by January 1, 2020.

Massage establishments and schools would be required to display a sign concerning services and assistance available to victims of human trafficking. The sign would have to be in English, Spanish, Korean, Mandarin, and any other language required by the Texas Commission of Licensing and Regulation (TCLR). The sign also would have to include a toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking and be displayed in a conspicuous place clearly visible to the public. TCLR would have to establish by rule requirements regarding the posting of signs. Massage establishments would have to be in compliance with these requirements by April 1, 2020.

TCLR would have to adopt rules necessary to implement the signage requirements by March 1, 2020.

The bill would take effect September 1, 2019, and would apply only to a license application submitted on or after the effective date.