HOUSE
RESEARCH
ORGANIZATION bill digest   5/1/2023

HB 1747 (2nd reading)
Leach, V. Jones
(CSHB 1747 by Herrero)

SUBJECT: Revising occupational licensing for persons with criminal convictions

COMMITTEE: Corrections — committee substitute recommended

VOTE: 8 ayes — Herrero, Kacal, Allen, V. Jones, Lopez, Sherman, Swanson, Toth

              0 nays

              1 absent — Murr

WITNESSES: For — Eddie Franz, Jail To Jobs; Kaden Norton, Prison Fellowship Ministries (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Terra Tucker, Alliance for Safety and Justice; Samuel Sheetz, Americans for Prosperity; David Emerick, JPMorgan Chase & Co.; Jennifer Rodriguez, North Texas Commission; Maggie Luna, Statewide Leadership Council; Luis Soberon, Texas 2036; Allen Place, Texas Criminal Defense Lawyers Association; Nikki Pressley, Texas Public Policy Foundation; Jorge Martinez, The LIBRE Initiative; Jennifer Allmon, The Texas Catholic Conference of Bishops; Renee Monroe, TxCURE Inc; Ashley Harris, United Ways of Texas; Fred Shannon, Walmart; Jennifer Carter; Lori Henning; Philip Taylor)

              Against — (*Registered, but did not testify*: Susan Stewart)

              On — (*Registered, but did not testify*: April Zamora, Texas Department of Criminal Justice; Kristina Hartman, Windham School District)

BACKGROUND: Some have suggested that current law related to occupational licensing may hinder certain persons with criminal records from obtaining employment.

DIGEST: CSHB 1747 would revise and establish provisions of the Occupations Code relating to the occupational eligibility of certain persons with criminal convictions.

Notice to licensing applicants. The bill would require a licensing authority to include a notice in the application form for each type of license issued by the authority and on the authority's website stating:

- that an applicant's prior criminal conviction could be grounds for disqualifying the applicant from receiving a license;
- the factors for determining whether a prior criminal conviction constitutes grounds for denying an applicant from receiving a license; and
- the right of certain students enrolled in educational programs that prepare a person for a license or licensing examination to request a criminal history evaluation letter.

Reporting. For each type of license issued by a licensing authority, the authority would be required to maintain a record of the total number of applications received, approved, denied for any reason, and denied because the applicant's prior criminal record, as well as any requested criminal history evaluation letters. By January 15 of each year, each licensing authority would prepare a report of such information for the preceding calendar year. Each authority would submit the yearly report to the Legislature and publish it on the authority's website. No later than January 15, 2025, each licensing authority would submit the initial required report.

Authority to revoke, suspend, or deny license. The conditions under which a licensing authority could suspend or revoke a license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to take a licensing examination would be revised to include a person who applied for the license or to take the licensing examination:

- before the fifth anniversary of the later of the date of conviction or the person's release from confinement;
- after the above period if the person was convicted of another offense; or
- at any time for certain serious offenses.

The bill would allow a licensing authority to accept an application from an inmate imprisoned in the Texas Department of Criminal Justice.

Factors in determining whether conviction directly relates to occupation. The bill would prohibit a licensing authority from determining that a conviction related to the duties and responsibilities of the licensed occupation unless the authority found by a preponderance of the evidence that consideration of the relevant factors supported that determination.

Additional factors for licensing authority to consider. The bill would revise the determination made by a licensing authority that triggered its duty to consider additional factors in deciding whether to take a certain disciplinary action. The bill would replace a determination that a criminal conviction directly related to a licensed occupation with a determination that a person had been convicted of certain serious offenses. The bill would prohibit a licensing authority, in making such a determination, from taking an action unless the authority found by a preponderance of the evidence that consideration of the relevant factors supported taking that action.

Burden of proof. In a hearing on the administrative appeal or judicial review of a licensing authority's decision to take an action, the licensing authority would have the burden of proving by a preponderance of the evidence that the offense for which the person was convicted was grounds for the authority to take the action and consideration of the relevant factors supported the authority's decision to take the action.

The bill would require applicable licensing authorities to make the necessary changes under the provisions of the bill as soon as practicable after the bill's effective date.

The bill would take effect September 1, 2023, and would apply only to an action taken by a licensing authority that occurred or a proceeding that commenced after January 1, 2024.