

BILL ANALYSIS

Senate Research Center

H.B. 2383
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Health & Human Services
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Engrossed

BACKGROUND AND PURPOSE

Current law authorizes an applicant for a license to practice chemical dependency counseling to be checked for prohibitive criminal history by the Texas Commission on Alcohol and Drug Abuse (TCADA) before a license is issued. State law does not provide for further criminal background checks until the license is renewed two years later. TCADA investigates many complaints involving abuse of and improper conduct toward patients, many of whom are children and minors, in drug and alcohol abuse treatment centers. H.B. 2383 establishes grounds by which TCADA can refuse to issue a license to practice chemical dependency counseling and authorizes TCADA to obtain criminal history record information relating to an applicant.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the Texas Commission on Alcohol and Drug Abuse in SECTION 2 (Section 504.057, Occupations Code) and SECTION 3 (Section 504.1525, Occupations Code) of this bill.

ANALYSIS

H.B. 2383 amends the Occupations Code to authorize the Texas Commission on Alcohol and Drug Abuse (TCADA) to obtain criminal history record information relating to a counselor intern from the Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI). The bill authorizes TCADA to adopt rules to implement TCADA's authority in obtaining criminal history record information on counselor interns, including rules that restrict the ability of a counselor intern to engage in chemical dependency counseling if the person has been convicted or placed on community supervision for an offense equal to or greater than a Class B misdemeanor as specified by TCADA rule.

The bill prohibits TCADA from issuing a license to practice chemical dependency counseling (license) to an applicant who has been convicted or placed on community supervision for an offense equal to a Class B misdemeanor specified by TCADA rule during the five years before the date of the application, convicted or placed on community supervision for an offense equal to or greater than a Class A misdemeanor specified by TCADA rule, or found to be incapacitated by a court on the basis of a mental defect or disease. This prohibition does not apply to an applicant who has received a full pardon based on the person's wrongful conviction or been found by a court to no longer be incapacitated.

The bill requires TCADA to refuse to renew a license on receipt of information from DPS or another law enforcement agency that the person has been convicted, placed on community supervision, or found to be incapacitated. The bill requires TCADA to suspend a license if TCADA receives written notice from DPS or another law enforcement agency that the license holder has been charged, indicted, or placed on deferred adjudication, community supervision, or probation, or convicted of an offense. The bill provides that for TCADA to initiate a proceeding to suspend a license upon written notice from DPS or another law enforcement agency, TCADA must serve notice on the license holder. The bill provides that the suspension is effective at the time notice is served and that the license holder is entitled to appeal the suspension.

H.B. 2383 authorizes a person whose license application is denied, whose license renewal is refused, or whose license is suspended to appeal the denial, refusal to renew, or suspension on the grounds that the 20th anniversary of the date of the conviction or placement on community supervision for an offense that was the sole basis for the commission's determination has occurred. After a hearing, the bill authorizes TCADA to determine that the person is entitled to a license. Proceedings for hearing and appeals are governed by the Administrative Procedure Act.

The bill authorizes TCADA to obtain criminal history record information relating to an applicant from the DPS and the FBI. The bill further authorizes TCADA to deny an application for a license if an applicant fails to provide two sets of fingerprints. The bill provides that the issuance of a license is conditioned on TCADA's receipt of the applicant's criminal history record information.

Effective date: September 1, 2001.

Provides that this Act applies to conduct that occurs before, on, or after the effective date.