

BILL ANALYSIS

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C.S.H.B. 1426
By: Allen; White (Burton)
Criminal Justice
5/17/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that previously incarcerated individuals who are employed are significantly less likely to re-offend than those unemployed and that a criminal conviction can create a barrier to licensing and employment. This barrier remains even when a person makes great strides toward rehabilitation and leaving behind a criminal past. H.B. 1426 seeks to address this issue by allowing persons who have successfully completed deferred adjudication community supervision or a term of community supervision for certain offenses and met certain other conditions to apply for a certificate of relief from collateral consequences.

H.B. 1426 amends the Code of Criminal Procedure to make a person eligible for a certificate of relief from collateral consequences issued under the bill's provisions if the person successfully completed a term of deferred adjudication community supervision and the judge has dismissed the proceedings and discharged the person or a term of community supervision and the person's conviction is set aside. The bill defines "collateral consequence" as the revocation, suspension, or denial of occupational licensure as an indirect consequence of a person's criminal history record information. The bill requires the court to provide a certificate to an eligible individual not later than the 30th day after the date the person becomes eligible for the certificate, as provided by the bill's provisions, and sets out the required contents of the certificate. H.B. 1426 prohibits the use of the criminal history record information of a person who has met the eligibility requirements for the certificate under the bill's provisions as grounds for denying a professional license to the person, provided that the person is otherwise qualified for the license, unless a licensing authority is prohibited by law from granting a specific occupational license to a person who has been convicted of or placed on deferred adjudication community supervision for a specific offense, in which case the certificate does not overcome that prohibition. The bill exempts from this prohibition several felony offenses and offenses that are sexual or violent in nature. The bill allows an agency to deny a license if the conviction relates to the occupation or license the individual seeks. The bill establishes that such a prohibition does not prohibit a licensing agency from restricting a person to a provisional or probationary license. The bill nullifies the effect of a person's certificate if the appropriate licensing authority finds that the person, after receiving the certificate, has committed an offense that is a Class A misdemeanor or higher category of offense. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 1426 amends current law relating to the issuance of a certificate of relief from collateral consequences to certain persons placed on community supervision, including deferred adjudication community supervision, for certain criminal offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Code of Criminal Procedure, by adding Chapter 68, as follows:

CHAPTER 68. CERTIFICATE OF RELIEF FROM COLLATERAL CONSEQUENCES

Art. 68.001. DEFINITIONS. Defines “certificate,” “collateral consequence,” and “criminal history record information.”

Art. 68.002. ELIGIBILITY. Provides that, except as otherwise provided by this article, a person is eligible for a certificate of relief from collateral consequences (certificate) if the person satisfactorily completed a term of deferred adjudication community supervision (DACS) and the judge has dismissed the proceedings and discharged the person under Article 42A.111 (Dismissal and Discharge); or a term of community supervision and the person’s conviction is set aside under Article 42A.701 (Reduction or Termination of Community Supervision Period).

Art. 68.003. PROVISION OR DENIAL OF CERTIFICATE. (a) Requires the court, not later than the 30th day after the date the court receives verification that the person has satisfactorily completed the eligibility requirements, as provided by Article 68.002, to issue the certificate or deny issuance of the certificate and provide the specific reason for the denial.

(b) Requires the court, in determining whether to issue a certificate to an eligible individual, to consider certain conduct and indicators of progress of the individual following a placement on community supervision.

(c) Authorizes an individual whose petition for a certificate is denied to reapply for the issuance of a certificate relating to the same offense after the first anniversary of the denial.

Art. 68.004. CONTENT OF CERTIFICATE. Requires that a certificate state that the recipient has completed a term of community supervision and all requirements imposed by the court related to the offense and is relieved of all penalties, disqualifications, and disabilities resulting from the offense.

Art. 68.005. EFFECT OF CERTIFICATE. (a) Prohibits a person’s criminal history record information for the offense that is the subject of the certificate, if the person has met the eligibility requirements under Article 68.002, from being used as grounds for denying, suspending, or revoking a professional or occupational license to the person, provided that the person is otherwise qualified for the license, unless the offense that is the subject of the certificate meets certain criteria.

(b) Provides that, if a licensing authority is prohibited by law from granting a specific occupational license to a person who has been convicted of or placed on DACS for a specific offense, a certificate does not overcome that prohibition.

(c) Provides that Subsection (a) does not apply to a professional license issued under Subtitle A (Financial Services), Title 5 (Regulation of Financial and Legal Services), or Title 10 (Occupations Related to Law Enforcement and Security), Occupations Code. Requires an agency that issues licenses under those provisions to comply with Sections 53.022 (Factors in Determining Whether Conviction Relates to Occupation) and 53.023 (Additional Factors for Licensing Authority to Consider), Occupations Code, in determining whether a person qualifies for a license.

(d) Provides that Subsection (a) does not prohibit a licensing agency from restricting a person to a provisional or probationary license.

Art. 68.006. NULLIFICATION OF CERTIFICATE. Provides that the effect of a person’s certificate is nullified if the appropriate licensing authority finds that the person, after receiving the certificate, has committed an offense that is a Class A misdemeanor or higher category of offense.

SECTION 2. Effective date: upon passage or September 1, 2017.