

## **BILL ANALYSIS**

Senate Research Center  
86R16794 JCG-D

H.B. 1865  
By: Landgraf et al. (Nelson)  
Business & Commerce  
5/15/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 1865 amends current law relating to the licensing and regulation of massage therapy, requires a student permit, and authorizes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 7 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 455.152, Occupations Code, as follows:

Sec. 455.152. INELIGIBILITY FOR LICENSE. Deletes existing Subsection (b) providing that a person convicted of a violation of this chapter (Massage Therapy) is ineligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor until the fifth anniversary of the date of conviction. Deletes the designation of Subsection (a). Provides that a person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense under Chapter 20A (Trafficking of Persons), Penal Code, or Subchapter A (Prostitution), Chapter 43, Penal Code, or another sexual offense.

SECTION 2. Amends Section 455.1525, Occupations Code, as follows:

Sec. 455.1525. New heading: CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) Requires the Texas Department of Licensing and Regulation (TDLR) to require an applicant for a license to submit a complete and legible set of fingerprints, on a form prescribed by TDLR, to TDLR or to the Department of Public Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI). Deletes existing text requiring TDLR, on receipt of an application for a license under this chapter, to conduct a criminal background check on the applicant.

(b) Prohibits TDLR from issuing a license to a person who does not comply with the requirement of Subsection (a).

(c) Requires TDLR to conduct a criminal history record information check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to TDLR by DPS, the FBI, and any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(d) Authorizes TDLR to:

(1) enter into an agreement with DPS to administer a criminal history record information check required under this section; and

(2) authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history record information check.

(e) Requires the applicant, for purposes of this section, if the applicant for a license is an entity, to submit fingerprints as required by Subsection (a) for each individual who:

(1) personally or constructively holds, including as the beneficiary of a trust:

(A) at least 10 percent of the entity's outstanding stock; or

(B) more than \$25,000 of the fair market value of the entity;

(2) has the controlling interest in the entity;

(3) has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10 percent of the profits, proceeds, or capital gains of the entity;

(4) is a member of the board of directors or other governing body of the entity; or

(5) serves as:

(A) an elected officer of the entity; or

(B) a general manager of the entity.

**SECTION 3.** Amends Section 455.160(h), Occupations Code, to require, rather than authorize, TDLR, on receipt of a request for a renewal of a license issued under this chapter, to conduct a criminal background check under Section 455.1525 (Criminal Background Checks).

**SECTION 4.** Amends Subchapter D, Chapter 455, Occupations Code, by adding Section 455.161, as follows:

**Sec. 455.161. STUDENT PERMIT; ELIGIBILITY.** (a) Requires TDLR to require a student enrolled in a massage school in this state to hold a permit stating the student's name and the name of the school. Requires the permit to be displayed in a reasonable manner at the school.

(b) Requires TDLR to issue a student permit to an applicant who submits an application to TDLR for a student permit accompanied by any required fee.

(c) Requires an applicant for a student permit described by this section to:

(1) submit an enrollment application to TDLR in a form and manner prescribed by TDLR; and

(2) satisfy other requirements specified by TDLR.

**SECTION 5.** Amends Subchapter E, Chapter 455, Occupations Code, by adding Section 455.2035, as follows:

**Sec. 455.2035. REPORTS TO DEPARTMENT.** (a) Requires a massage school to maintain a monthly progress report regarding each student attending the school. Requires

the report to certify the daily attendance record of each student and the number of credit hours earned by each student during the previous month.

(b) Requires the school, on a student's completion of a prescribed course of instruction, to notify TDLR that the student has completed the required number of hours and is eligible to take the appropriate examination.

SECTION 6. Repealer: Section 455.158 (Student Exemption From Licensing Requirements), Occupations Code.

SECTION 7. Requires the Texas Commission of Licensing and Regulation, not later than March 1, 2020, to adopt rules necessary to implement the changes in law made by this Act to Chapter 455, Occupations Code.

SECTION 8. (a) Makes application of Section 455.1525, Occupations Code, as amended by this Act, prospective.

(b) Requires TDLR, not later than September 1, 2021, to obtain criminal history record information on each person who, on the effective date of this Act, holds a license issued under Chapter 455, Occupations Code, and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license. Authorizes TDLR to suspend the license of a license holder who does not provide the criminal history record information as required by TDLR and this subsection.

SECTION 9. Makes application of Section 455.160(h), Occupations Code, as amended by this Act, prospective.

SECTION 10. (a) Defines "massage school" for purposes of this section.

(b) Provides that Section 455.161, Occupations Code, as added by this Act, applies to a student who is enrolled in a massage school on or after June 1, 2020.

SECTION 11. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2019.

(b) Effective date, Section 455.2035, Occupations Code, as added by this Act: July 1, 2020.