

BILL ANALYSIS

S.B. 769
By: West, Royce
Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In Texas, a person who has committed a violent act of crime or an offense that has significant financial implications to the victim can be pardoned by the governor for that crime. However, for lesser offenses for which the courts have ruled that the public is best served by an offer of deferred adjudication to the defendant, the governor has no power by statute or constitutionally to pardon that crime.

The attorney general has opined that the dismissal of charges on completion of deferred adjudication releases the defendant from "all penalties and disabilities resulting from the offense." According to the attorney general, because the charges are subsequently dismissed upon completion of the deferred adjudication sentence, there is no conviction to be pardoned.

However, after deferred adjudication, there is a permanent criminal history record. Although many offenses can be sealed from public disclosure, the majority of criminal history records from deferred adjudication dispositions are readily available to public and private entities. A criminal history record can negatively impact a person during the job search process.

As proposed, S.B. 769 authorizes the governor to pardon a deferred adjudication sentence.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Article 48.01, Code of Criminal Procedure, to authorize the governor to have the power to pardon a person after successful completion of a term of deferred adjudication community supervision.

SECTION 2. Effective date: September 1, 2005. Makes application of this act contingent upon approval by the voters of the proposed constitutional amendment authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision.

EFFECTIVE DATE

This Act takes effect on September 1, 2005, but only if the constitutional amendment proposed in SJR 20 is passed by the voters on November 8, 2005.