

BILL ANALYSIS

S.B. 1738
By: West, Royce
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Despite the fact that, by law, a person who has completed deferred adjudication does not have a conviction, some state agencies and licensing entities and private sector employers treat deferred adjudication the same as a conviction. Therefore, persons could be denied employment and occupational licenses on the basis of a non-conviction. It is estimated that about two million Texans have received deferred adjudication sentences.

S.B. 1738 creates standards for persons who have completed deferred adjudication that would be considered by state licensing entities when reviewing applicants for licensing or employment.

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 Section 53.021, Occupations Code, by adding Subsections (c), (d), and (e), as follows:

(c) Prohibits a licensing authority, except as provided by Subsections (d) and (e), notwithstanding any other law, from considering a person to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

- (1) the person entered a plea of guilty or nolo contendere;
- (2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
- (3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(d) Authorizes a licensing authority to consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if, after consideration of the factors described by Sections 53.022 and 53.023(a) of the Occupations Code, the licensing authority determines that:

- (1) the person may pose a continued threat to public safety; or
- (2) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

(e) Provides that Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide law enforcement or public health, education, or safety services.

SECTION 2. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

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