

BILL ANALYSIS

H.B. 963
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Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Board of Nurses currently uses a declaratory order process that allows the board to make decisions regarding an applicant's eligibility for licensure based on the applicant's criminal record before the applicant begins training. This process also assists in preventing prospective applicants from training for an occupation for which they may be ineligible due to their criminal background.

H.B. 963 requests that state licensing authorities create a similar process by which applicants with a criminal background may request a criminal history evaluation letter to determine the applicant's eligibility for licensure prior to beginning occupational training or investing in a licensing examination.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to a department, commission, board, office, or other agency of the state that issues a license to practice or engage in a particular business, profession, or occupation in SECTION 2 of this bill.

ANALYSIS

H.B. 963 amends the Occupations Code to authorize a person to request a criminal history evaluation letter from a licensing authority regarding the person's eligibility for a license issued by that authority if the person is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license and has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense. The bill requires the request to state the basis for the person's potential ineligibility and establishes that a licensing authority has the same powers to investigate a submitted request and the requestor's eligibility as the authority has to investigate a person applying for a license.

H.B. 963 requires the licensing authority to notify the requestor in writing of the authority's determination on each ground of potential ineligibility if the authority determines that a ground for ineligibility does not exist. The bill requires the authority to issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility if the authority determines that the requestor is ineligible for a license. The bill provides that, in the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter. The bill requires a licensing authority to provide the notice or letter to the requestor not later than the 90th day after the date the authority receives the request.

H.B. 963 authorizes the authority to charge the requestor a fee adopted by the authority and requires the fee to be in an amount sufficient to cover the cost of administering these provisions. The bill requires each licensing authority to adopt rules necessary to administer these provisions

no later than January 1, 2010.

H.B. 963 defines "license" and "licensing authority."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.