

BILL ANALYSIS

H.B. 2845
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Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the Department of State Health Services is not allowed to consider an applicant's criminal background as a criteria for certification as emergency medical services personnel.

H.B. 2845 authorizes an applicant's criminal background to be among the items considered in relation to granting, renewing, or revoking emergency medical services certification.

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 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission (HHSC) all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

H.B. 2845 amends the Health and Safety Code to authorize the commissioner of health, in addition to other licensing disciplinary action, to suspend or revoke a certificate, disqualify a person from receiving an emergency medical services certificate, or deny a person the opportunity to take a certification examination on the grounds that the person has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of emergency medical services personnel. The bill requires that a certificate holder's certificate be revoked if the certificate holder is convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense listed in Code of Criminal Procedure provisions for offenses exempted from the authorization for a judge to suspend the imposition of a sentence and place the defendant on community supervision.

H.B. 2845 requires the commissioner of health, in determining whether an offense directly relates to the duties and responsibilities of emergency medical services personnel under provisions of the bill, to consider the nature and seriousness of the crime; the relationship of the crime to the purposes for requiring certification to engage in emergency medical services; the extent to which certification might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the

responsibilities of emergency medical services personnel. The bill additionally requires the commissioner of health, in determining the fitness to perform the duties and discharge the responsibilities of emergency medical services personnel for a person who has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, a crime to consider the extent and nature of the person's past criminal activity; the age of the person when the crime was committed; the amount of time that has elapsed since the person's last criminal activity; the conduct and work activity of the person before and after the criminal activity; evidence of the person's rehabilitation or rehabilitative effort while incarcerated, after release, or since imposition of community supervision or deferred adjudication; and other evidence of the person's fitness, including letters of recommendation from prosecutors, law enforcement officers, correctional officers, or community supervision officers who prosecuted, arrested, or had custodial or other responsibility for the person, the sheriff or chief of police in the community where the person resides, and any other person in contact with the person. The bill establishes that the applicant or certificate holder has the responsibility, to the extent possible, to obtain and provide to the commissioner of health the required recommendations. The bill requires the applicant or certificate holder, in addition to providing the required evidence, to furnish proof in the form required by the Department of State Health Services (DSHS) that the applicant or certificate holder has maintained a record of steady employment; supported the applicant's or certificate holder's dependents; maintained a record of good conduct; and paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or certificate holder has been convicted, been placed on community supervision, or received deferred adjudication.

H.B. 2845 establishes that a proceeding before the commissioner of health to consider the issues under provisions of the bill is governed by the Administrative Procedure Act. The bill requires the executive commissioner of HHSC, not later than January 1, 2010, to issue guidelines relating to the commissioner of health's decision-making under provisions for authority over and factors considered in suspension, revocation, or denial of a certificate. The bill requires that the guidelines state the reasons a particular crime is considered to relate to emergency medical services personnel and include any other criterion that may affect the decisions of the commissioner of health. The bill requires the executive commissioner of HHSC to file the guidelines with the secretary of state for publication in the Texas Register and requires DSHS annually to issue any amendments to the guidelines.

H.B. 2845 provides that if the commissioner of health suspends or revokes a certification, denies a person a certificate, or denies the opportunity to be examined for a certificate under provisions of the bill, the commissioner of health is required to notify the person in writing of the reason for the suspension, revocation, denial, or disqualification, the review procedure, and the earliest date the person may appeal the action of the commissioner. The bill authorizes a person whose certificate has been suspended or revoked or who has been denied a certificate or the opportunity to take an examination and who has exhausted the person's administrative appeals to file an action in the district court in Travis County for review of the evidence presented to the commissioner of health and the decision of the commissioner. The bill requires the petition for an action to be filed not later than the 30th day after the date the commissioner's decision is final.

H.B. 2845 requires the executive commissioner of HHSC to consider criminal background information in adopting the minimum standards for emergency medical services personnel certification. The bill authorizes DSHS to provide a prescreening criminal history record check for an emergency medical services personnel applicant to determine the applicant's eligibility to receive certification before completion of the educational and training requirements mandated by the executive commissioner. The bill authorizes DSHS to charge each applicant who requests prescreening a reasonable fee for costs associated with prescreening.

H.B. 2845 amends the Occupations Code to exempt an applicant for certification as emergency medical services personnel under the Emergency Health Care Act from provisions of that code relating to the consequences of criminal conviction on licensing.

H.B. 2845 provides that the changes in law made by its provisions apply only to an application for certification or renewal of certification of emergency medical services personnel submitted on or after January 1, 2010.

EFFECTIVE DATE

September 1, 2009.