

## **BILL ANALYSIS**

C.S.S.B. 809  
By: Whitmire  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Over the last decade, legislation has been approved restricting criminal offenders from receiving various state licenses to work in various professions. Research has shown that the greatest deterrent to future crimes is meaningful full-time employment.

C.S.S.B. 809 aims to curb recidivism rates that are tied to loss of employment opportunities and is applicable to certain offenders who do not have convictions related to controlled substances, sexually violent offenses, or aggravated offenses, including murder, capital murder, and indecency with a child.

C.S.S.B. 809 specifies that the authority of a licensing authority to suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation is for a conviction within the five years preceding the date the person applies for the license. The bill requires a licensing authority, other than certain health professions licensing authorities, to grant a license or a provisional license to an otherwise qualified applicant who has been convicted of an offense unless the offense relates to the duties and responsibilities of the licensed occupation. The bill authorizes certain health professions licensing authorities to issue a provisional license to such an applicant. The bill requires a licensing authority to report the issuance of a provisional license to the appropriate supervising department if the person is on probation or on parole.

### **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**

C.S.S.B. 809 amends the Occupations Code to expand the list of persons to which provisions on the consequences of criminal convictions on licensing are inapplicable to include a reserve law enforcement officer, county jailer, or public security officer licensed or applying for a license; a person licensed or applying for a license issued by the Texas State Board of Public Accountancy; and a person licensed or applying for a license under the Mortgage Broker License Act.

C.S.S.B. 809 amends provisions that exclude from the applicability described above a person who is licensed or applying for a license issued by certain boards and who has been convicted of certain offenses. The bill includes a person who is licensed or applying for a license issued by the Texas State Board of Examiners of Psychologists, the Texas Board of Nursing, the Texas Optometry Board, the Texas State Board of Podiatric Medical Examiners, and the Texas Board of Chiropractic Examiners. The bill includes among those offenses a felony under the Comprehensive Drug Abuse Prevention and Control Act of 1970, an offense that renders a person ineligible for judge-ordered community supervision, an offense involving theft from or

fraud against a state or federal health care program, and a sexually violent offense as defined by the Code of Criminal Procedure.

C.S.S.B. 809 modifies the grounds on which a licensing authority is authorized to suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination by limiting the felony or misdemeanor offense for which the person was convicted to an offense that was committed within the five years preceding the date the person applies for a license.

C.S.S.B. 809 requires a licensing authority, other than the medical board, pharmacy board, dental examining board, psychologists examining board, nursing board, optometry board, podiatric medical examining board, chiropractic examining board, and veterinary medical examining board, and unless the applicant has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation, to issue to an otherwise qualified applicant who has been convicted of an offense the license for which the applicant applied or a provisional license. The bill authorizes the medical board, pharmacy board, dental examining board, psychologists examining board, nursing board, optometry board, podiatric medical examining board, chiropractic examining board, and veterinary medical examining board to issue to an otherwise qualified applicant who has been convicted of an offense a provisional license. The bill authorizes a licensing authority, other than the medical board, pharmacy board, dental examining board, psychologists examining board, nursing board, optometry board, podiatric medical examining board, chiropractic examining board, and veterinary medical examining board, to issue a provisional license for a term of six months to an applicant who has been convicted of an offense. The bill authorizes the medical board, pharmacy board, dental examining board, psychologists examining board, nursing board, optometry board, podiatric medical examining board, chiropractic examining board, and veterinary medical examining board to issue a provisional license for a term determined by the authority to an applicant who has been convicted of an offense.

C.S.S.B. 809 requires the licensing authority to revoke a provisional license if the provisional license holder commits a new offense; commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or violates the law or rules governing the practice of the occupation for which the provisional license is issued. The bill requires the licensing authority to issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described above that warrants the revocation of the provisional license. The bill disqualifies a provisional license holder from receiving the license for which the applicant originally applied if the licensing authority revokes the provisional license.

C.S.S.B. 809 requires a license applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license to provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The bill requires the licensing authority to notify the probation or parole department that a provisional license has been issued. The bill requires the probation or parole department to notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license.

#### **EFFECTIVE DATE**

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

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 809 removes a provision in the original including a person licensed or applying for a license under the Private Security Act in the list of persons to which the provisions on the consequences of criminal conviction on licensing are inapplicable. The substitute differs from the original by including in the list of persons a person who is licensed by the Texas State Board of Podiatric Medical Examiners or the Texas Board of Chiropractic Examiners and including in the convictions that make the provisions on the consequences of criminal conviction on licensing inapplicable a felony under the Comprehensive Drug Abuse Prevention and Control Act or an offense involving theft from or fraud against a state or federal health care program. The substitute differs from the original by removing certain health professions licensing authorities from the general provision for the issuance of a license or a provisional license to a person who has been convicted of an offense, and by establishing separate provisions for the issuance of a provisional license by certain health professions licensing authorities.