

BILL ANALYSIS

Senate Research Center
81R4681 BEF-F

S.B. 809
By: Whitmire
Criminal Justice
3/13/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

This bill aims to curb recidivism rates that are tied to loss of employment opportunities. Furthermore, this bill 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. The occupations that are not applicable include: law enforcement officer, county jailer, public security officer, and occupations for which licenses are issued by the Texas State Board of Public Accountancy, the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners, the Texas State Board of Examiners of Psychologists, the Texas Board of Nursing, the Texas Optometry Board, or the State Board of Veterinary Medical Examiners.

As proposed, S.B. 809 authorizes licensing authorities to suspend or revoke a license, disqualify a person from receiving a license, or deny the opportunity to take a license exam if a person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation that was committed less than five years prior to the date the application was filed. This bill also provides that, notwithstanding the aforementioned restrictions, the licensing authority is required to issue a license or provisional license to an otherwise qualified applicant. This bill requires the licensing authority to report the issuance of such a license to the appropriate supervising department if the person is on probation or on parole.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.002. Occupation Code, as follows:

Sec. 53.002. **APPLICABILITY OF CHAPTER.** Provides that this chapter does not apply to a peace officer or an applicant for a license as a peace officer described by Article 2.12 (Who Are Peace Officers), Code of Criminal Procedure, or to a reserve law enforcement officer, a county jailer, or a public security officer licensed or applying for a license issued under Chapter 1701 (Law Enforcement Officers); a person licensed or applying for a license issued by the Texas State Board of Public Accountancy; a person licensed or applying for a license under Chapter 156 (Mortgage Brokers), Finance Code; or a person who is licensed or is applying for a license issued by the Texas Medical Board, rather than the Texas State Board of Medical Examiners, the Texas State Board of Pharmacy, the State Board of Dental Examiners, the Texas State Board of Examiners of Psychologists, the Texas Board of Nursing, the Texas Optometry Board, or the State Board of Veterinary Medical Examiners, and has been convicted of an offense listed in Section 3(g) (relating prohibiting a judge from denying community supervision to a defendant based solely on the defendant's inability to speak, read, write, hear, or understand English), Article 42.12, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001 (Definitions), Code of Criminal Procedure.

SECTION 2. Amends Section 53.021(a), Occupations Code, as follows:

(a) Authorizes 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 and that was committed less than five years before the date the person applies for the license.

SECTION 3. Amends Subchapter B, Chapter 53, Occupations Code, by adding Section 53.0211, as follows:

Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR CRIMINAL CONVICTIONS. (a) Requires a licensing authority, notwithstanding any other law and unless the applicant has been convicted of an offense described by Section 53.021(a), to issue to an otherwise qualified applicant who as been convicted of an offense the license for which the applicant applied or a provisional license described by Subsection (b).

(b) Authorizes a licensing authority to issue a provisional license for a term of six months to an applicant who as been convicted of an offense.

(c) 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.

(d) 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 by Subsection (c).

(e) Provides that if the licensing authority revokes a provisional license under Subsection (c), the provisional license holder is disqualified from receiving that license for which the applicant originally applied.

(f) Requires an applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this section, to provide to the license authority the name and contact information for the probation or parole department to which the person reports. Requires the licensing authority to notify the probation or parole department that a provisional license has been issued. 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.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2009.