

BILL ANALYSIS

C.S.H.B. 4030

By: Dale

Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that applicants for certain occupational licenses are allowed to work for a certain number of days while the applicant's background information is being processed by the Department of Public Safety, and the parties have concerns with this procedure. It was recently reported that a registered sex offender was installing security alarms in private homes and that, despite the eventual rejection of the offender's application for a license, the offender was nevertheless allowed to work during the period in which the background information was being processed, and the criminal background was never revealed to customers. C.S.H.B. 4030 seeks to close this potential loophole to ensure the safety of Texas communities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 4030 amends the Occupations Code to require an application for a registration to perform any activity regulated by the Private Security Act or an application for an endorsement entitling an individual holding a registration to perform any such activity for an appropriately licensed company to include the required fees, including the criminal history check fee, and fingerprints of the applicant provided in the manner prescribed by the Texas Private Security Board. The bill establishes that such an application is not considered to be verified until the board has received electronic verification from the Department of Public Safety (DPS) or the Federal Bureau of Investigation, as applicable, that the applicant has submitted the applicant's fingerprints. The bill requires the board to make information available to the public concerning whether an applicant for registration or endorsement has met Private Security Act requirements for performing a service for which the registration or endorsement is required. The bill authorizes the applicant to begin performing the duties of employment for which the registration or endorsement is required, other than duties as a commissioned security officer, if such information is not made available before the 48th hour after the time the applicant's fingerprints are submitted, if the employer or its agent verifies through DPS' publicly accessible website that the applicant is not disqualified for the registration or endorsement based on the applicant's criminal history and is not required to register as a sex offender, and if the employer or its agent maintains in the applicant's employee file a copy of the search results obtained through that verification process.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4030 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 1702.230, Occupations Code, is amended to read as follows:

(a) An application for registration or endorsement must be verified and include:

(1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;

(2) a statement that:

(A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or

(B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;

(3) the name and address of the applicant's employer and, if applicable, the applicant's consulting firm;

(4) the date the employment commenced;

(5) a letter from the license holder requesting that the applicant be registered or endorsed;

(6) the title of the position occupied by the applicant and a description of the applicant's duties; ~~and~~

(7) all required fees, including the criminal history check fee;

(8) fingerprints in the form and manner approved by the department, and verified as required by subsection (d) of this section;
and

(9) any other information, evidence, statement, or document required by the board.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1702.230, Occupations Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) An application for registration or endorsement must be verified and include:

(1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;

(2) a statement that:

(A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or

(B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;

(3) the name and address of the applicant's employer and, if applicable, the applicant's consulting firm;

(4) the date the employment commenced;

(5) a letter from the license holder requesting that the applicant be registered or endorsed;

(6) the title of the position occupied by the applicant and a description of the applicant's duties; ~~and~~

(7) the required fees, including the criminal history check fee established under Section 1702.282;

(8) fingerprints of the applicant provided in the manner prescribed by the board; and

(9) any other information, evidence, statement, or document required by the board.

(b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) before the earlier of:

(1) the date the application is submitted; or
(2) the date the applicant begins to perform the duties of employment that require registration.

(c) An applicant must submit an application that substantially meets the requirements of this section prior to employment in a capacity for which registration is required.

(d) Subsection (a)(8) of this section requires the department receive electronic verification from the Federal Bureau of Investigation or the department's Crime Records Service that fingerprints have been submitted.

(e) The department shall make available to the public information on whether an applicant has met the conditions necessary to perform regulated services.

No equivalent provision.

(d) For purposes of Subsection (a), an application is not considered to be verified until the board has received electronic verification from the department or the Federal Bureau of Investigation, as applicable, that the applicant has submitted the applicant's fingerprints.

(e) The board shall make information available to the public concerning whether an applicant for registration or endorsement has met the requirements under this chapter for performing a service for which the registration or endorsement is required.

(f) If information concerning an applicant is not made available under Subsection (e) before the 48th hour after the time the applicant's fingerprints are submitted in accordance with Subsection (a), the applicant may begin performing the duties of employment for which the registration or endorsement is required, other than duties as a commissioned security officer, if the employer or its agent:

(1) verifies through the department's publicly accessible website that the applicant is:

(A) not disqualified for the registration or endorsement based on the applicant's criminal history; and

(B) not required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) maintains in the applicant's employee file a copy of the search results obtained under Subdivision (1).

SECTION 2. Section 1702.230(a), Occupations Code, as amended by this Act, applies only to an application for

registration or endorsement that is submitted to the Texas Private Security Board on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3. This Act takes effect September 1, 2015.