

BILL ANALYSIS

C.S.H.B. 1865
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the Texas attorney general, labor trafficking and the sex trafficking of minors remains a significant problem in Texas with the massage therapy industry being a major player in both labor and sex trafficking. Prompted by this situation, the Texas Human Trafficking Prevention Task Force recommended statutory changes relating to the licensing and regulation of massage therapy. C.S.H.B. 1865 seeks to make those changes in an effort to reduce trafficking in the massage therapy industry.

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 rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 1865 amends the Occupations Code to remove the provision making a person convicted of a violation of statutory provisions relating to massage therapy ineligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor until the fifth anniversary of the date of the conviction. The bill makes the authorization for the Texas Department of Licensing and Regulation (TDLR) to conduct a criminal background check on a massage therapy license applicant on receipt of a request for a license renewal a requirement that TDLR do so.

C.S.H.B. 1865 requires TDLR to require an applicant for such a license to submit a complete and legible set of fingerprints, on a prescribed form, to TDLR or the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the FBI. The bill prohibits TDLR from issuing a license to a person who does not comply with this requirement and requires TDLR to conduct a criminal history record check of each applicant using certain information. The bill authorizes TDLR to enter into an agreement with DPS to administer a criminal history record information check required by the bill and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the check. For purposes of these provisions, if the applicant is an entity, the applicant must submit fingerprints for certain individuals holding a specified ownership or investment interest in the entity or who is a member of the board of directors or other governing body of the entity or serves as an elected officer of the entity or a general manager of the entity. The bill requires TDLR to obtain that information on each person who, as of the bill's effective date, holds such a license and did not undergo the requisite record check. The bill authorizes TDLR to suspend the license of a license holder who does not provide the required information.

C.S.H.B. 1865 repeals the provision exempting a student who is enrolled in a state-approved course of instruction that consists of at least 500 hours and who provides massage therapy as part of an internship program or without compensation from the requirement to obtain a massage therapy license. The bill requires TDLR instead to require a student enrolled in a massage school in Texas on or after June 1, 2020, to hold a permit stating the student's name and the name of the school and requires the permit to be displayed in a reasonable manner at the school. The bill sets out requirements for permit application and issuance.

C.S.H.B. 1865 requires a massage school, effective July 1, 2020, to maintain a monthly progress report regarding each student attending the school that certifies the daily attendance record of each student and the number of credit hours earned by each student during the previous month. The bill requires the school, on a student's completion of a prescribed course of instruction, to notify TDLR that the student has completed the required number of hours and is eligible to take the appropriate examination.

C.S.H.B. 1865 requires the Texas Commission of Licensing and Regulation (TCLR), not later than March 1, 2020, to adopt rules necessary to implement the changes in law made by the bill.

C.S.H.B. 1865 repeals Section 455.158, Occupations Code.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1865 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions relating to a criminal history record information check required for an applicant for a license related to massage therapy.

The substitute changes the deadline by which TCLR is required to adopt necessary rules to implement the bill's changes. The substitute does not include a requirement for TCLR to adopt rules under provisions relating to the student permit.

The substitute changes the effective date for provisions relating to the student permit and the monthly progress report.