86R15287 SOS-D

By:  Hernandez H.B. No. 1095

Substitute the following for H.B. No. 1095:

By:  Hernandez C.S.H.B. No. 1095

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain criminal history record information requirements regarding the licensing of massage therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 455.1525, Occupations Code, is amended to read as follows:

Sec. 455.1525.  CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE [~~BACKGROUND CHECKS~~]. (a) The department shall require an applicant for a license to submit a complete and legible set of fingerprints, on a form prescribed by the department, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation [~~On receipt of an application for a license under this chapter, the department shall conduct a criminal background check on the applicant~~].

(b)  The department may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c)  The department shall conduct a criminal history record information check of each applicant for a license using information:

(1)  provided by the individual under this section; and

(2)  made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d)  The department may:

(1)  enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2)  authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check.

(e)  For purposes of this section, if the applicant for a license is an entity, the applicant must submit fingerprints as required by Subsection (a) for each individual who:

(1)  personally or constructively holds, including as the beneficiary of a trust:

(A)  at least 10 percent of the entity's outstanding stock; or

(B)  more than $25,000 of the fair market value of the entity;

(2)  has the controlling interest in the entity;

(3)  has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10 percent of the profits, proceeds, or capital gains of the entity;

(4)  is a member of the board of directors or other governing body of the entity; or

(5)  serves as:

(A)  an elected officer of the entity; or

(B)  a general manager of the entity.

SECTION 2.  The heading to Section 455.160, Occupations Code, is amended to read as follows:

Sec. 455.160.  LICENSE TERM AND RENEWAL; CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL.

SECTION 3.  Section 455.160, Occupations Code, is amended by adding Subsections (b), (c), and (d) to read as follows:

(b)  A license holder renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the license holder as provided by Section 455.1525.

(c)  The department may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (b).

(d)  A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1)  Section 455.1525 for the initial issuance of the license; or

(2)  this section as part of a prior license renewal.

SECTION 4.  Section 455.160(h), Occupations Code, is repealed.

SECTION 5.  (a) Sections 455.1525 and 455.160, Occupations Code, as amended by this Act, apply only to an application for the issuance or renewal of a license submitted to the Texas Department of Licensing and Regulation on or after the effective date of this Act. An application for the issuance or renewal of a license 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.

(b)  Not later than September 1, 2021, the Texas Department of Licensing and Regulation shall obtain criminal history record information on each person who, on the effective date of this Act, holds a license issued under Chapter 455, Occupations Code, and did not undergo a criminal history record information check based on the license holder's fingerprints on initial application for the license. The department may suspend the license of a license holder who does not provide the criminal history record information as required by the department and this subsection.

SECTION 6.  This Act takes effect September 1, 2019.