

BILL ANALYSIS

Senate Research Center
87R20654 JSC-D

H.B. 757
By: Dutton (Miles)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Courts may grant defendants in certain circumstances a form of probation known as deferred adjudication under which the judge withholds finding the defendant guilty pending the successful completion of a period of community supervision. Deferred adjudication is used mostly for first-time offenders and may be granted only in those instances when the defendant is charged with a misdemeanor or one of a select few felony charges. After the successful completion of the terms and conditions of deferred adjudication, the charges against a defendant are dismissed.

However, far too often, individuals who have successfully completed deferred adjudication are denied professional or occupational licenses and certificates. H.B. 757 seeks to address this issue by prohibiting such denial for individuals who have successfully completed deferred adjudication community supervision and who would otherwise qualify for the professional or occupational license or certificate, except in limited circumstances.

H.B. 757 amends current law relating to the consequences of receiving a grant of deferred adjudication community supervision and successfully completing the period of supervision.

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 Article 42A.111, Code of Criminal Procedure, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Authorizes an offense for which the defendant received a dismissal and discharge under Article 42A.111 (Dismissal and Discharge), notwithstanding any other law, to be used only as described by Section 12.42(g)(1) (relating to a defended adjudged guilty of an offense or who entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication), Penal Code, or as otherwise described by this article. Prohibits an offense for which the defendant received a dismissal and discharge under this article, subject to Subsection (d), from being used as grounds for denying issuance of a professional or occupational license or certificate to, or suspending or revoking the professional or occupational license or certificate of, an individual otherwise entitled to or qualified for the license or certificate.

(d) Provides that for any defendant who receives a dismissal and discharge under this article:

- (1) makes no changes to this subdivision;
- (2) and (3) makes nonsubstantive changes to these subdivisions; and
- (4) if the defendant is an applicant for or the holder of a professional or occupational license or certificate, the licensing agency is authorized to consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license or certificate if:

(A) the defendant was placed on deferred adjudication community supervision for an offense:

(i) listed in Article 42A.054(a) (relating to a defendant adjudged guilty of certain offenses);

(ii) described by Article 62.001(5) (relating to the definition of "reportable conviction or adjudication") or (6) (relating to the definition of "sexually violent offense");

(iii) committed under Chapter 21 (Sexual Offenses) or 43 (Public Indecency), Penal Code; or

(iv) related to the activity or conduct for which the person seeks or holds the license; or

(B) the profession for which the person holds or seeks a license or certificate involves direct contact with children in the normal course of official duties or duties for which the license or certification is required.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.