

## **BILL ANALYSIS**

C.S.H.B. 757  
By: Dutton  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.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.

### **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. 757 amends the Code of Criminal Procedure to prohibit an offense for which a defendant received a dismissal and discharge on expiration of a period of deferred adjudication community supervision from being used as grounds for denying issuance of or suspending or revoking a professional or occupational license or certificate with respect to an individual otherwise entitled to or qualified for the license or certificate. The bill clarifies that an offense for which the defendant received a dismissal and discharge may be used only in narrow circumstances for punishment enhancement purposes for certain repeat and habitual felony offenders.

C.S.H.B. 757 authorizes a licensing agency to consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license or certificate in the following circumstances:

- the defendant was placed on deferred adjudication community supervision for an offense that:
  - renders the defendant ineligible for judge-ordered community supervision;
  - is a reportable conviction or adjudication or sexually violent offense under the sex offender registration program;

- is classified as a sexual offense or public indecency offense under the Penal Code; or
- is related to the activity or conduct for which the person seeks or holds the license; or
- 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.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 757 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 makes the original's prohibition against using an offense for which a defendant received a dismissal and discharge following successful completion of deferred adjudication community supervision as grounds for license denial, suspension, or revocation applicable also with regard to the denial, suspension, or revocation of a professional or occupational certificate.

The substitute does not include provisions that appeared in the original establishing the circumstances under which such an offense may or may not be used as grounds for denying housing or employment to, or terminating the existing housing or employment of, an otherwise entitled or qualified individual.

Whereas the original authorized the use of an offense for which the defendant received such a discharge and dismissal as grounds for license denial, suspension, or revocation if the offense is a certain violent, sexual, or other specified serious offense or is relating to the license activity or conduct, the substitute authorizes a licensing agency instead to consider the fact that the defendant has previously received deferred adjudication community supervision for such an offense of that same nature in issuing, renewing, denying, or revoking a license or certificate. The substitute includes a provision absent from the original authorizing a licensing agency to consider the fact that a license or certificate applicant or holder previously has received deferred adjudication community supervision following a discharge and dismissal in issuing, renewing, denying, or revoking a license or certificate if the profession for which the defendant 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.

Whereas the original removed authorizations for the Department of Family and Protective Services and the Council on Sex Offender Treatment to consider the fact that a defendant who has received a discharge and dismissal previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking certain licenses under their purview, the substitute retains those authorizations.