

BILL ANALYSIS

C.S.H.B. 821
By: White
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the eligibility requirements for a handgun license in Texas should be more aligned with the criteria included in the National Instant Criminal Background Check System (NICS). C.S.H.B. 821 seeks to provide for this.

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. 821 amends the Government Code to revise the requirements for a person to be eligible for a handgun license as follows:

- retains the following requirements unchanged from current law:
 - the person is a legal resident of Texas for the six-month period preceding the date of license application or is otherwise eligible for a nonresident license;
 - the person is at least 21 years of age; and
 - the person has not made any material misrepresentation, or failed to disclose any material fact, in the license application;
- with respect to criminal history record information:
 - retains the following requirements unchanged from current law:
 - the person has not been convicted of a felony; and
 - the person is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;
 - removes the following requirements:
 - the person is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, of disorderly conduct or an equivalent offense, or of a felony under an information or indictment;
 - the person has not, in the five years preceding the application date, been convicted of a Class A or Class B misdemeanor or equivalent offense or of disorderly conduct or an equivalent offense; and
 - the person has not, in the 10 years preceding the application date, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and
 - includes the following as new requirements:
 - the person is not under an indictment for a federal offense punishable by imprisonment for a term exceeding one year, other than antitrust violations, unfair trade practices, restraints of trade, or other similar

offenses relating to the regulation of business practices, or for an offense under state law punishable by imprisonment for a term of more than two years; and

- the person is not prohibited from possessing firearms for a misdemeanor crime of domestic violence under applicable state or federal law;
- replaces the requirement that the person is fully qualified under applicable federal and state law to purchase a handgun with a requirement that the person is not prohibited by applicable federal or state law from possessing a firearm;
- replaces the requirement that the person is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests, with a requirement that the person is not currently prohibited from possessing a firearm under one of the following orders:
 - a family violence protective order;
 - a protective order for victims of sexual assault or abuse, indecent assault, stalking, or trafficking;
 - a stalking protective order;
 - a protective order issued by another jurisdiction under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act; or
 - a magistrate's order for emergency protection;
- replaces the requirement that the person is not a chemically dependent person with a requirement that the person is not chemically dependent on a controlled substance;
- removes the following requirements:
 - the person has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;
 - the person has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller of public accounts, the tax collector of a political subdivision of the state, or any agency or subdivision of the state; and
 - the person is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun; and
- includes the following as new requirements:
 - the person has not been involuntarily committed to a mental institution or adjudicated as a mental defective;
 - the person is not illegally or unlawfully in the United States;
 - the person has not been discharged from the U.S. armed forces under dishonorable conditions; and
 - the person has not renounced the person's U.S. citizenship.

The bill removes the specific handgun license eligibility requirements for a retired judicial officer and requires such an officer instead to meet these general eligibility requirements.

C.S.H.B. 821 removes the following as grounds for handgun license revocation by the Department of Public Safety (DPS):

- the license holder being convicted of an offense of unlawful carrying of a handgun by a handgun license holder; and
- DPS determining that the license holder engaged in conduct constituting a reason to suspend a handgun license after the person's license has been previously suspended twice for the same reason.

C.S.H.B. 821 revises the grounds for handgun license suspension by DPS as follows:

- replaces the grounds that are based on the license holder being charged with or arrested for certain specified offenses with grounds based on being charged with the commission of any offense that, if convicted, renders the person ineligible under federal or state law to possess a firearm; and
- replaces the grounds based on the license holder being the subject of a specified protective order with grounds based on the license holder being the subject of an active

protective order that causes the person to become ineligible under federal or state law to possess a firearm.

The bill removes the requirement for DPS to suspend a handgun license for not less than one year and not more than three years as a result of the license holder repeatedly engaging in conduct subjecting their handgun license to suspension. The bill repeals a provision requiring any court-entered judgment of conviction for an offense of unlawful carrying of a handgun by a license holder to contain the convicted license holder's handgun license number.

C.S.H.B. 821 repeals the following Government Code provisions:

- Sections 411.171(2), (4), and (6);
- Section 411.1711;
- Sections 411.172(b), (b-1), (c), (d), (e), and (f); and
- Section 411.206(c).

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 821 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 original and the substitute each revise the requirements for a person to be eligible for a handgun license. However, the substitute changes the original's provisions regarding license eligibility as follows:

- the substitute includes the following eligibility requirements that were not in the original:
 - the person is not under indictment for a federal offense punishable by imprisonment for a term exceeding one year, other than antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or for an offense under state law punishable by imprisonment for a term of more than two years;
 - the person has not been involuntarily committed to a mental institution or adjudicated as a mental defective;
 - the person is not illegally or unlawfully in the United States;
 - the person has not been discharged from the U.S. armed forces under dishonorable conditions;
 - the person has not renounced the person's U.S. citizenship; and
 - the person is not prohibited from possessing firearms for a misdemeanor crime of domestic violence under applicable state or federal law;
- the substitute retains the following eligibility requirements in law that were removed by the original:
 - the person has not been convicted of a felony; and
 - the person is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;
- the substitute replaces the requirement that the person is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests, with a requirement that the person is not currently prohibited from possessing a firearm under an applicable protective order or a magistrate's order for emergency protection, whereas the original removed the requirement entirely; and
- the substitute replaces the requirement that the person is not a chemically dependent person with a requirement that the person is not chemically dependent on a controlled substance, whereas the original removed the requirement entirely.