

BILL ANALYSIS

Senate Research Center

S.B. 483
By: Johnson
Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature has granted the Texas Department of Licensing and Regulation (TDLR) the authority to review applications of all but two licenses on a case-by-case manner, allowing TDLR to take into consideration the applicants' criminal history in relation to the practice of the license.

Current law requires TDLR to deny or revoke a massage therapy license if an individual enters a plea of no-contest or guilty, is found guilty of prostitution or another sexual offense, or if the TDLR finds the person practiced massage therapy at a sexually oriented business. This law has prevented individuals, some who have been victims of human trafficking, the ability to continue the practice of a skill after rehabilitation or completing sentencing requirements.

S.B. 483 amends the Occupations Code to allow the TDLR to consider each person's criminal history, including federal offenses and offenses committed in other states, as well as their rehabilitative efforts when determining if an occupational license for massage therapy should be granted or renewed. TDLR, like its other licensing programs, will also have the authority to levy administrative penalties when appropriate. S.B. 483 would allow persons who have been victims of human and sexual trafficking, and forced to provide massages in sexually oriented businesses, to use those skills in the workforce once they have completed rehabilitation.

S.B. 483 amends current law relating to the regulation of massage therapy.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.355, Occupations Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Provides that Subsection (a) (relating to the prohibition of the renewal of a license that has been revoked) does not apply to a person whose license was revoked under Section 455.251(b)(1).

(a-2) Provides that this subsection and Subsection (a-1) expire September 1, 2025.

SECTION 2. Amends Section 455.152, Occupations Code, as follows:

Sec. 455.152. INELIGIBILITY FOR LICENSE. Provides that a person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for:

(1) an offense under Chapter 20A (Trafficking of Persons), Penal Code, or Section 43.021 (Solicitation of Prostitution), 43.03 (Promotion of Prostitution), 43.031 (Online Promotion of Prostitution), 43.04 (Aggravated Promotion of

Prostitution), 43.041 (Aggravated Online Promotion of Prostitution), or 43.05 (Compelling Prostitution), Penal Code, rather than an offense under Chapter 20A, Penal Code, or Subchapter A (Prostitution), Chapter 43, or another sexual offense; or

(2) an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by Subdivision (1).

SECTION 3. Amends the heading to Section 455.251, Occupations Code, to read as follows:

Sec. 455.251. GROUND FOR LICENSE DENIAL, DISCIPLINARY ACTION, OR ADMINISTRATIVE PENALTY.

SECTION 4. Amends Sections 455.251(a) and (b), Occupations Code, as follows:

(a) Authorizes the Texas Commission of Licensing and Regulation (TCLR) or the executive director of the Texas Department of Licensing and Regulation (executive director) to refuse to issue a license to a person, suspend, revoke, or refuse to renew the license of a person, or impose an administrative penalty under Subchapter F (Administrative Penalty), Chapter 51, on a person licensed under Chapter 455 (Massage Therapy) if the person:

(1) obtains or attempts to obtain a license by fraud, misrepresentation, or concealment of material facts; or

(2)-(6) makes no changes to these subdivisions.

Deletes existing text requiring TCLR or the executive director to suspend, revoke, or refuse to renew the license of a person or reprimand a person licensed under this chapter under certain circumstances.

(b) Requires TCLR or the executive director to revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for:

(A) an offense under Chapter 20A, Penal Code, or Section 43.021, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code, rather than an offense involving prostitution or another sexual offense; or

(B) an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by Paragraph (A); or

(2) makes no changes to this subdivision.

SECTION 5. Requires TCLR, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement Sections 455.152 and 455.251, Occupations Code, as amended by this Act.

SECTION 6. Provides that Section 51.355(a-1), Occupations Code, as added by this Act, applies only with respect to a license revoked under Section 455.251(b)(1), Occupations Code, as that section existed immediately before the effective date of this Act.

SECTION 7. Effective date: upon passage or September 1, 2023.