

## **BILL ANALYSIS**

C.S.H.B. 1104  
By: Hernandez  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerned parties observe the prevalence of domestic violence in Texas and throughout the United States and contend that a domestic violence victim may feel comfortable discussing the issue with the person's cosmetologist. The parties note that another state recently enacted legislation using this rapport between cosmetologists and clientele to help prevent the spread of domestic violence. C.S.H.B. 1104 seeks to provide a critical instrument in early detection and prevention of domestic violence by providing for the inclusion of information on sexual assault and domestic violence awareness in continuing educational programs for the practice of cosmetology.

### **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. 1104 amends the Occupations Code to require the Texas Commission of Licensing and Regulation to require the continuing education programs for the practice of cosmetology to include information, approved by or acceptable to the commission, on sexual assault and domestic violence awareness. The bill exempts a license holder subject to cosmetology continuing education requirements who is also a licensed peace officer or a certified educator from the portion of continuing education relating to sexual assault and domestic violence awareness and authorizes the commission to waive the requirement that a license holder participate in that portion of continuing education if the commission determines that completion of the requirement will cause the person substantial financial hardship, the person is serving in the U.S. armed forces, or the person is incapacitated due to illness. The bill makes these provisions applicable only to the renewal of a license or certificate that expires on or after September 1, 2018, and requires the commission to adopt rules to implement these provisions not later than March 1, 2018.

C.S.H.B. 1104 grants a person who has completed the portion of continuing education relating to sexual assault and domestic violence awareness, and that person's employer, immunity from civil and criminal liability for reporting, in good faith, information obtained during the course and scope of the person's employment that relates to a potential act of sexual assault or domestic violence.

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1104 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Sections 1602.254(b) and (c), Occupations Code, are amended to read as follows:

No equivalent provision.

(b) To be eligible for an operator license, an applicant must meet the requirements of Subsection (c) or:

(1) be at least 17 years of age;  
(2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; ~~and~~

(3) have completed:

(A) 1,500 hours of instruction in a licensed beauty culture school; or

(B) 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the commission in a vocational cosmetology program in a public school; and

(4) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

(c) The commission shall adopt rules for the issuance of an operator license under this section to a person who holds a Class A barber certificate. The department shall issue the license to an applicant who:

(1) holds an active Class A barber certificate;

(2) completes 300 hours of instruction in cosmetology through a commission-approved training program in a cosmetology school;

(3) completes a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263;

~~(4) [(3)]~~ passes the examination required under Section 1602.262; and

~~(5) [(4)]~~ submits to the department:

- (A) an application on a form prescribed by the department; and
- (B) the required fee.

SECTION 2. Section 1602.256(b), Occupations Code, is amended to read as follows:

- (b) To be eligible for a manicurist specialty license, an applicant must:
  - (1) be at least 17 years of age;
  - (2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; ~~and~~
  - (3) have completed 600 hours of instruction in manicuring through a commission-approved training program; and
  - (4) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

No equivalent provision.

SECTION 3. Section 1602.257(b), Occupations Code, is amended to read as follows:

- (b) To be eligible for an esthetician specialty license, an applicant must:
  - (1) be at least 17 years of age;
  - (2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; ~~and~~
  - (3) have completed 750 hours of instruction in esthetics specialty through a commission-approved training program; and
  - (4) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

No equivalent provision.

SECTION 4. Section 1602.2571(b), Occupations Code, is amended to read as follows:

- (b) To be eligible for a specialty license in eyelash extension application, an applicant must:
  - (1) be at least 17 years of age;
  - (2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency

No equivalent provision.

that measures the person's ability to benefit from training; ~~and~~

(3) have completed a training program described by Section 1602.2572 that has been approved by the commission; and

(4) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

SECTION 5. Section 1602.259(b), Occupations Code, is amended to read as follows:

(b) To be eligible for a hair weaving specialty certificate, an applicant must:

(1) be at least 17 years of age; ~~and~~

(2) have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program; and

(3) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

No equivalent provision.

SECTION 6. Section 1602.260(b), Occupations Code, is amended to read as follows:

(b) To be eligible for a wig specialty certificate, an applicant must:

(1) be at least 17 years of age; ~~and~~

(2) have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program; and

(3) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

No equivalent provision.

SECTION 7. Section 1602.261(c), Occupations Code, is amended to read as follows:

(c) An applicant who qualifies under Subsection (b)(3)(B) must:

(1) either:

(A) have obtained a high school diploma or a high school equivalency certificate; or

(B) have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; ~~and~~

(2) have completed:

No equivalent provision.

- (A) 1,200 hours of instruction in a manicure/esthetics specialty curriculum in a commission-approved training program; or
- (B) 600 hours of instruction in a manicure curriculum and 750 hours of instruction in an esthetics curriculum in commission-approved training programs; and
- (3) have completed a sexual assault and domestic violence education program established or approved by the commission under Section 1602.263.

SECTION 8. Subchapter F, Chapter 1602, Occupations Code, is amended by adding Section 1602.263 to read as follows:

Sec. 1602.263. SEXUAL ASSAULT AND DOMESTIC VIOLENCE EDUCATION PROGRAM.

(a) The commission shall adopt rules to establish or approve an education program on sexual assault and domestic violence awareness and support. A program established or approved under this section must be one hour in duration and may be provided as an online course.

(b) The commission may adopt rules relating to the standards for approval of a program described by Subsection (a), including the content and provider of the program.

(c) An applicant for the issuance or renewal of a license or certificate issued under this chapter who is required to complete a program established or approved under this section shall verify completion of the program in the manner provided by commission rule.

SECTION 9. Section 1602.354, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) As part of the continuing education programs under Subsection (a), a person who holds a license or certificate issued under Subchapter F must complete a sexual assault and domestic violence education program that is established or approved by the commission under Section 1602.263.

The commission may waive compliance with this subsection if:

No equivalent provision.

SECTION 1. Section 1602.354, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall require the continuing education programs under Subsection (a) to include information, approved by or acceptable to the commission, on sexual assault and domestic violence awareness. A license holder subject to Subsection (a) who is also a peace officer licensed under Chapter 1701, or an educator certified under Subchapter B, Chapter 21, Education Code, is exempt from the portion of continuing education described by this subsection. The commission may waive the requirement that a license holder participate in the portion of continuing education described by this

- (1) the commission determines that completion of the requirement will cause the person substantial financial hardship;
- (2) the person is serving in the United States armed forces; or
- (3) the person is incapacitated due to illness.

SECTION 10. Subchapter I, Chapter 1602, Occupations Code, is amended by adding Section 1602.408 to read as follows:

Sec. 1602.408. IMMUNITY FROM LIABILITY. A person who has completed the education program under Section 1602.263 when required by Subchapter F and Section 1602.354(c), or that person's employer, is immune from civil and criminal liability for reporting, in good faith, information obtained during the course and scope of the person's employment that relates to a potential act of sexual assault or domestic violence.

SECTION 11. (a) Not later than September 1, 2018, the Texas Commission of Licensing and Regulation shall adopt rules to implement the changes in law made by this Act to Chapter 1602, Occupations Code.

(b) The changes in law made by this Act apply only to an application for the issuance or renewal of a license or certificate that is filed with the Texas Department of Licensing and Regulation on or after September 1, 2018. An application for the issuance or renewal of a license or certificate that is filed before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2017.

(b) Section 1602.408, Occupations Code, as added by this Act, takes effect September 1, 2018.

subsection if:

- (1) the commission determines that completion of the requirement will cause the person substantial financial hardship;
- (2) the person is serving in the United States armed forces; or
- (3) the person is incapacitated due to illness.

SECTION 2. Subchapter I, Chapter 1602, Occupations Code, is amended by adding Section 1602.408 to read as follows:

Sec. 1602.408. IMMUNITY FROM LIABILITY. A person who has completed the portion of continuing education described by Section 1602.354(c), or that person's employer, is immune from civil and criminal liability for reporting, in good faith, information obtained during the course and scope of the person's employment that relates to a potential act of sexual assault or domestic violence.

SECTION 3. (a) Not later than March 1, 2018, the Texas Commission of Licensing and Regulation shall adopt rules to implement Section 1602.354, Occupations Code, as amended by this Act.

(b) Section 1602.354, Occupations Code, as amended by this Act, applies only to the renewal of a license or certificate that expires on or after September 1, 2018. The renewal of a license or certificate that expires before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.