

BILL ANALYSIS

Senate Research Center
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S.B. 224
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, state law says that a person who successfully completes a deferred adjudication sentence does not have a conviction for that offense. Section 5(c), Article 42.12, Code of Criminal Procedure, provides that, with exceptions, the successful completion of a deferred adjudication sentence, "may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for the conviction of an offense." Despite the fact that by law a person who has completed deferred adjudication does not have a conviction, some state agencies, licensing entities, and private sector employers treat deferred adjudication the same as a conviction. Therefore, persons could be denied employment and occupational licenses on the basis of a non-conviction. It is estimated that about two million people in Texas have received a deferred adjudication sentence.

As proposed, S.B. 224 establishes the powers of licensing authorities relating to the assessing of an application for a state license of a person who has completed deferred adjudication.

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 Section 53.021, Occupations Code, by adding Subsections (c)-(e), as follows:

(c) Prohibits a licensing authority, except as provided by Subsections (d) and (e), notwithstanding any other law, from considering a person to have been convicted of an offense for the purposes of this section if, regardless of the statutory authorization, the person entered a plea of guilty or nolo contendere; the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court, and at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(d) Authorizes a licensing authority to consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if, after consideration of the factors described by Sections 53.022 (Factors In Determining Whether Conviction Relates to Occupation) and 53.023(a) (relating to considerations for determining fitness to perform duties), the licensing authority determines that the person may pose a continued threat to public safety, or employment of the person in the licensed occupation would create a situation in which the person has the opportunity to repeat the prohibited conduct.

(e) Provides that Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide law enforcement or public health, education, or safety services.

SECTION 2. Effective date: upon passage or September 1, 2009.