

BILL ANALYSIS

H.B. 1070
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law restricts the expunction of records and files related to an arrest for a criminal offense to instances involving an acquittal or pardon and instances in which there was no final conviction under certain circumstances. Interested parties note that under current Texas law, there is no gradual path to expunction available to an individual convicted of certain alcohol- and drug-related offenses who has completed treatment designed to remedy the problems in the individual's previous lifestyle and that, as a result, the individual's ability to enter or re-enter the workforce and access housing is permanently compromised. The parties also note that under current law providing for an order of nondisclosure of certain records regarding an offense resulting in the assignment of an individual to a drug court, the charges will remain on the individual's record and will therefore be accessible to various entities and agencies requesting the record.

In an effort to provide an incentive for individuals to participate in substance abuse treatment, encourage rehabilitation, and discourage further criminal behavior, H.B. 1070 provides for the expunction of the arrest records and files of certain individuals arrested for low-level alcohol- and drug-related offenses who meet certain conditions, including successfully completing a substance abuse treatment course.

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

H.B. 1070 amends the Code of Criminal Procedure to authorize a person who has been placed under a custodial or noncustodial arrest for an offense involving the possession or use of alcohol or a substance regulated under the Texas Controlled Substances Act to petition a district court for the county in which the person resides to have all records and files related to the arrest expunged if the person fully discharged the person's sentence, including any term of incarceration and parole or other form of supervision; successfully completed a substance abuse treatment course of not less than six months in duration at a treatment facility; maintained an alcohol- and drug-free lifestyle for a period of not less than two years following the substance abuse treatment course; and has not been arrested for the commission of any felony committed after the date of the arrest with respect to which the person seeks an expunction.

H.B. 1070 requires the person to submit a verified petition for expunction to a district court and requires the petition to contain certain information required under statutory procedures for expunction and a statement that the person meets each requirement for expunction under the bill's provisions. The bill authorizes a court, after receipt of such a petition and notice to the state, to hold a hearing to determine whether the petitioner meets each requirement for expunction under the bill's provisions and, if after the hearing the court finds that the petitioner meets each such requirement and the issuance of an order directing expunction is in the best

interest of justice, to enter an order directing expunction in the manner consistent with statutory procedures for expunction.

H.B. 1070 amends the Government Code to make conforming changes.

EFFECTIVE DATE

September 1, 2013.