

BILL ANALYSIS

S.B. 977
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

An order of nondisclosure prohibits public disclosure of the criminal history records relating to an offense for which an individual was granted and successfully completed deferred adjudication community supervision. Under an order of nondisclosure, many private sector employers and some governmental entities are unable to access such an individual's sealed criminal record. Interested parties note that while thousands of nondisclosure orders have been issued over the past decade, this number is low and disproportionate to the high number of individuals in Texas who have received and successfully completed deferred adjudication. S.B. 977 seeks to improve and increase eligible individuals' access to courts for purposes of petitioning for an order of nondisclosure of criminal history record information.

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

S.B. 977 amends the Government Code to clarify that the requirement for a court to issue an order of nondisclosure for a person placed on deferred adjudication community supervision and subsequently discharged and dismissed applies, in addition to other conditions, after an opportunity for a hearing and a determination that the person is entitled to file the petition for the order of nondisclosure, rather than after a hearing on whether the person is so entitled. The bill removes statutory language making a person's authorization to petition the court that placed the person on deferred adjudication for an order of nondisclosure contingent on the payment of an additional \$28 court fee on or after certain periods of time have elapsed since the discharge and dismissal, depending on the grade of offense, and instead authorizes such a person to petition for the order on or after those time periods have elapsed and requires the petition to be accompanied by the fee.

S.B. 977 authorizes such a person who petitions the court for an order of nondisclosure to file the petition in person, electronically, or by mail. The bill requires the Office of Court Administration of the Texas Judicial System to prescribe a form for the filing of a petition electronically or by mail and requires the form to provide for the petition to be accompanied by the required fees and any other supporting material determined to be necessary by the office of court administration, including evidence that the person is entitled to file the petition. The bill requires the office of court administration to make available on its Internet website the electronic application and printable application form and requires each county or district clerk's office that maintains an Internet website to include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website.

S.B. 977 requires a court, on receipt of a petition for an order of nondisclosure, to provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The bill requires the court to hold a

hearing before determining whether to issue an order of nondisclosure, but specifies that a hearing is not required if the state does not request a hearing on the issue before the 45th day after the date on which the state receives such notice and the court determines that the defendant is entitled to file the petition and that the order is in the best interest of justice.

EFFECTIVE DATE

September 1, 2013.