

BILL ANALYSIS

S.B. 1172
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that the general public has some knowledge of community supervision, more commonly known as probation, but that few outside of the criminal justice system are aware of the option for courts to reduce or terminate a term of community supervision upon a defendant's successful completion of a portion of the supervision period and subsequently set aside the conviction. Under this set-aside option, a guilty plea is entered by the defendant. However, under deferred adjudication community supervision, there is no admission of guilt and judgment is withheld in exchange for the promise that all charges will be dismissed following successful completion of the term of supervision. While the records relating to an offense for which deferred adjudication has been successfully completed can be sealed, a conviction that has been set aside has no similar legal remedy, may be disclosed to the public, and may be revealed in a criminal history record information search. S.B. 1172 seeks to address this discrepancy by providing for the eligibility of certain criminal defendants whose conviction has been set aside by a judge to be sealed through an order of nondisclosure.

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. 1172 amends the Government Code to authorize a person who is convicted of an offense other than an offense that would render the person ineligible for deferred adjudication community supervision, who has been placed on community supervision, and with respect to whom the conviction is subsequently set aside by the court on the defendant's successful completion of the lesser of two years of community supervision or one-third of the original community supervision period to petition the court that placed the person on community supervision for an order of nondisclosure if the person has not been convicted of or placed on deferred adjudication community supervision for any offense other than certain fine-only misdemeanors during the supervision period. The bill requires the court, after notice to the state and a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the community supervision. The bill authorizes a criminal justice agency to disclose criminal history record information that is the subject of the order only to other criminal justice agencies for criminal justice purposes, to specified noncriminal justice agencies and entities, or to the person who is the subject of the order.

S.B. 1172 authorizes a person to petition the court that placed the person on community supervision for an order of nondisclosure under the bill's provisions on payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition and authorizes the payment to be made only after the conviction is set aside, if the offense for which the person was placed on community supervision was a misdemeanor, or after

the fifth anniversary of the date the conviction is set aside, if the offense for which the person was placed on community supervision was a felony. The bill makes the statutory procedures for the collection and deposit of a petition fee for a nondisclosure order after successful completion of the deferred adjudication community supervision period apply also to such a fee for a nondisclosure order under the bill's provisions. The bill authorizes a person who is the subject of information that is excepted from disclosure under the state's public information law as a result of an order of nondisclosure to deny the occurrence of the criminal proceeding, rather than the arrest and prosecution, to which the information relates, unless the information is being used against the person in a subsequent criminal proceeding.

S.B. 1172 amends the Occupations Code to make a conforming change.

EFFECTIVE DATE

September 1, 2013.