

BILL ANALYSIS

S.B. 130
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties explain certain matters relating to Code of Criminal Procedure provisions relating to the reduction or termination of community supervision as they relate to the authority of a judge to set aside a verdict. The parties further explain the differences between a set-aside and deferred adjudication. They note that a conviction that has been set aside remains available for public disclosure, is included in a criminal history search, and, unlike a deferred adjudication, is not eligible to be sealed. The records of the offense and conviction, the parties explain, were intended to always be available to the courts in the instance of a future criminal offense. The parties contend that the statutory intent underlying a set-aside is to provide future relief and that this intention closely parallels the intent underlying an order of nondisclosure relevant to deferred adjudication. The parties, therefore, call for the eligibility for the records of an offense and conviction that have been set aside by a judge to be sealed through an order of nondisclosure. S.B. 130 seeks to address this issue.

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

S.B. 130 amends the Government Code to authorize a person who is placed on community supervision on a conviction that is subsequently set aside by the court and who is not convicted of an offense for which the person would be ineligible for deferred adjudication community supervision to petition the court that placed the person on community supervision for an order of nondisclosure if the defendant satisfies the statutory requirements to do so. The bill requires the court, after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and that 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 restricts disclosure by a criminal justice agency of criminal history record information that is the subject of the order to other criminal justice agencies for criminal justice purposes, to certain noncriminal justice agencies and entities as specified by statute, or to the person who is the subject of the order. The bill authorizes a person to petition the court that placed the person on community supervision for an order of nondisclosure 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 revises a statutory provision

regarding an exception to state public information law for certain criminal history information subject to a nondisclosure order to authorize a person who is the subject of criminal history information that is so excepted to deny the occurrence of the criminal proceeding, rather than the arrest and prosecution, to which the information relates and the exception of the information from those provisions, unless the information is being used against the person in a subsequent criminal proceeding.

S.B. 130 amends the Occupations Code to clarify that the exemption from the prohibition against a licensing authority from considering a person to have been convicted of an offense for purposes of revoking, suspending, or denying a license issued by the licensing authority under certain conditions does not apply to a person 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, safety services, or financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner.

EFFECTIVE DATE

September 1, 2015.