

BILL ANALYSIS

C.S.H.B. 1404
By: Allen
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern regarding the limited eligibility for a person to receive an order of nondisclosure of criminal history record information with regard to certain misdemeanor offenses. C.S.H.B. 1404 seeks to address this issue by providing for an order of nondisclosure for a person convicted of a misdemeanor under certain circumstances.

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

C.S.H.B. 1404 amends the Government Code to remove the condition that a person who is convicted of a misdemeanor, other than certain intoxication or organized crime offenses, and who is not otherwise eligible for an order of nondisclosure of criminal history record information be sentenced to and serve a period of confinement to be eligible to apply for such an order and instead add the condition that the person complete the person's sentence before applying for such an order. The bill specifies that the required conditions for receiving an order of nondisclosure apply to a person who is placed on community supervision and removes the specification that the placement on deferred adjudication community supervision that disqualifies a person for an order of nondisclosure is a placement on such supervision under the Code of Criminal Procedure procedures for deferred adjudication community supervision. The bill expands from a fine-only offense under the Transportation Code to any fine-only traffic offense the offenses that are excluded from the offenses that make a person ineligible for an order of nondisclosure.

C.S.H.B. 1404 makes provisions relating to an order of nondisclosure of criminal history record information applicable to the issuance of such an order for an offense committed before, on, or after September 1, 2017, except that provisions relating to an order of nondisclosure for a person who was placed on deferred adjudication community supervision for certain nonviolent misdemeanors apply only to a person who receives a discharge and dismissal on or after September 1, 2017.

C.S.H.B. 1404 repeals Section 32, Chapter 1279 (S.B. 1902), Acts of the 84th Legislature, Regular Session, 2015.

EFFECTIVE DATE

September 1, 2017.

85R 24357

17.110.579

Substitute Document Number: 85R 22755

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1404 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter E-1, Chapter 411, Government Code, is amended.

SECTION 2. Section 411.0735, Government Code, is amended.

SECTION 3. Section 411.074, Government Code, is amended to read as follows:

Sec. 411.074. **REQUIRED CONDITIONS FOR RECEIVING AN ORDER OF NONDISCLOSURE.** (a) A person may be granted an order of nondisclosure of criminal history record information under this subchapter and, when applicable, is entitled to petition the court to receive an order under this subchapter only if, during the period after the court pronounced the sentence or placed the person on community supervision, including deferred adjudication community supervision, for the offense for which the order of nondisclosure is requested, and during any applicable waiting period that this subchapter requires for the person after completion of the person's sentence or community supervision, including deferred adjudication community supervision ~~[required by this subchapter]~~, the person is not convicted of or placed on deferred adjudication community supervision ~~under Subchapter C, Chapter 42A, Code of Criminal Procedure,~~ for any offense other than a traffic [an] offense that is [under the Transportation Code] punishable by fine only.

(b) A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order under this subchapter if:

(1) the person requests the order of nondisclosure ~~[was convicted or placed on deferred adjudication community supervision]~~ for, or the person has been

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

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(b) A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order under this subchapter if:

(1) the person requests the order of nondisclosure ~~[was convicted or placed on deferred adjudication community supervision]~~ for, or the person has been

previously convicted of or placed on [~~any other~~] deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, for:

(A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(B) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(C) an offense under Section 19.02, 19.03, 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(D) any other offense involving family violence, as defined by Section 71.004, Family Code; or

(2) the court makes an affirmative finding that the offense for which the order of nondisclosure [~~of criminal history record information~~] is requested involved family violence, as defined by Section 71.004, Family Code.

SECTION 4. Section 32, Chapter 1279 (S.B. 1902), Acts of the 84th Legislature, Regular Session, 2015, is repealed.

SECTION 5. This Act takes effect September 1, 2017.

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(A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(B) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(C) an offense under Section 19.02, 19.03, 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(D) any other offense involving family violence, as defined by Section 71.004, Family Code; or

(2) the court makes an affirmative finding that the offense for which the order of nondisclosure [~~of criminal history record information~~] is requested involved family violence, as defined by Section 71.004, Family Code.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.