

BILL ANALYSIS

C.S.H.B. 3069
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties believe the structure for veterans treatment court programs should more closely resemble the structure that exists for drug courts. C.S.H.B. 3069 seeks to address this issue by revising the administration of and eligibility for participation in a veterans treatment court program.

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. 3069 amends the Government Code to expand the class of persons for whom a county commissioners court may establish a veterans treatment court program to include a person convicted of or placed on deferred adjudication community supervision for any misdemeanor or felony offense. The bill entitles a person who successfully completes a veterans treatment court program to file with the court that placed the person in the program a petition for an order of nondisclosure of criminal history record information if the person satisfies the requirements in the bill's provisions setting out certain procedures following successful completion of such a program, has never been previously convicted of one of a number of certain offenses ineligible for judge-ordered community supervision or of a sexually violent offense as defined for purposes of the sex offender registration program, and is not convicted of any felony offense between the date on which the person successfully completed the veterans treatment court program and the second anniversary of that date. The bill requires the court to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which a person entered the veterans treatment court program, regardless of whether the person was convicted of or placed on deferred adjudication community supervision for the offense or whether the case against the person was dismissed due to successful completion of the program, after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice. The bill authorizes a person to file with the court that placed the person in the veterans treatment court program a petition for such a nondisclosure order only on or after the second anniversary of the date the person successfully completed the program. The bill establishes that a person is not entitled to petition the court for such an order if the person's entry into the veterans treatment court program arose as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

C.S.H.B. 3069 conditions the requirement that a veterans treatment court program ensure that a defendant eligible for participation in the program be provided legal counsel before volunteering to proceed through the program and while participating in the program on there not yet having been a disposition in the criminal case. The bill excepts an order of nondisclosure of criminal history record information under the bill's provisions from statutory provisions setting out certain required conditions for receiving such a nondisclosure order.

C.S.H.B. 3069 establishes that the changes made by the bill's provisions relating to the establishment of a veterans treatment court program and relating to a court order of nondisclosure apply to a person who, on or after the bill's effective date, enters such a program, regardless of whether the person committed the offense for which the person enters the program before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3069 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. Section 124.001, Government Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) If a defendant who was arrested for or charged with, but not convicted of or placed on deferred adjudication community supervision for, an offense successfully completes a veterans treatment court program, after notice to the attorney representing the state and a hearing in the veterans treatment court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

(c) Regardless of whether the defendant is later convicted of or placed on deferred adjudication community supervision for the offense for which the defendant entered the veterans treatment court program, if a

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 124.001(b), Government Code, is amended to read as follows:

(b) If a defendant who was arrested for or charged with, but not convicted of or placed on deferred adjudication community supervision for, an offense successfully completes a veterans treatment court program, after notice to the attorney representing the state and a hearing in the veterans treatment court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

SECTION 4. Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0727 to read as follows:

Sec. 411.0727. PROCEDURE FOLLOWING SUCCESSFUL COMPLETION OF VETERANS TREATMENT COURT PROGRAM.

(c) Regardless of whether the person was convicted of or placed on deferred adjudication community supervision for the offense for which the person entered the veterans treatment court program or whether

defendant described by Subsection (b) successfully completes a veterans treatment court program and the case is not dismissed under that subsection, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of an offense listed in Article 42A.054(a), Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(2) is not convicted for any felony offense between the date on which the defendant successfully completed the program and the second anniversary of that date.

(d) A defendant who successfully completes a veterans treatment court program as a result of receiving a conviction or deferred adjudication community supervision for an offense

is entitled to petition for an order of nondisclosure of criminal history record information as described by Subsection (c), except that

(See Subsection (c)(1) above.)

(See Subsection (c)(2) above.)

the case against the person was dismissed under Section 124.001(b),

after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the person entered the veterans treatment court program.

(See Subsection (b)(2) below.)

(See Subsection (b)(3) below.)

(a) This section applies only to a person who successfully completes a veterans treatment court program under Chapter 124 or former law.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) is entitled to file with the court that placed the person in the veterans treatment court program a petition for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section;

(2) has never been previously convicted of an offense listed in Article 42A.054(a), Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(3) is not convicted of any felony offense between the date on which the person successfully completed the program and the second anniversary of that date.

(d) A person may file with the court that placed the person in the veterans treatment court program a petition for an order of nondisclosure of criminal history record information under this section only on or after the second anniversary of the date the person successfully completed the program.

a defendant is not entitled to petition the court for an order of nondisclosure

if the defendant's entry into the veterans treatment court program arose as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

SECTION 2. Sections 124.002(a) and (c), Government Code, are amended.

SECTION 3. Section 124.003(a), Government Code, is amended.

No equivalent provision.

SECTION 4. The change in law made by this Act by adding Sections 124.001(c) and (d), Government Code, and amending Section 124.002, Government Code, applies to a person who, on or after the effective date of this Act, enters a veterans treatment court program under Chapter 124, Government Code, regardless of whether the person committed the offense for which the person enters the program before, on, or after the effective date of this Act.

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

(e) A person is not entitled to petition the court for an order of nondisclosure of criminal history record information under this section if the person's entry into the veterans treatment court program arose as the result of a conviction of an offense involving the operation of a motor vehicle while intoxicated.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 5. Section 411.074, Government Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to an order of nondisclosure of criminal history record information under Section 411.0727.

SECTION 6. (a) The change in law made by this Act by amending Sections 124.002 and 124.003, Government Code, applies to a person who, on or after the effective date of this Act, enters a veterans treatment court program created under Chapter 124, Government Code, regardless of whether the person entering the program committed the offense for which the person enters the program before, on, or after the effective date of this Act.

(b) The change in law made by this Act by adding Section 411.0727, Government Code, applies to a person who, on or after the effective date of this Act, enters a veterans treatment court program created under Chapter 124, Government Code, or former law, regardless of whether the person entering the program committed the offense for which the person enters the program before, on, or after the effective date of this Act.

SECTION 7. Same as introduced version.