

## **BILL ANALYSIS**

H.B. 64  
By: Canales  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Many Texans who have accepted deferred adjudication community supervision for a misdemeanor erroneously believe that their criminal record is erased on filing a petition for nondisclosure when, in actuality, those records may be accessible to certain criminal justice agencies, school districts, public hospitals, and state licensing boards. As such, there have been calls to remove the stigma associated with these misdemeanor arrests and allow these individuals to leave that past behind them. H.B. 64 seeks to address this issue by entitling a person who has been placed on deferred adjudication and meets certain conditions to have all records and files related to their misdemeanor arrest expunged.

### **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**

H.B. 64 amends the Code of Criminal Procedure to entitle a person who has been placed under a custodial or noncustodial arrest for a misdemeanor offense to have all records and files related to the arrest expunged if the following conditions are met:

- the misdemeanor offense for which the person was arrested was not:
  - an offense involving the purchase and sale of human organs, disorderly conduct, public indecency, prohibited weapons, or organized crime;
  - an offense under the Texas Dangerous Drug Act;
  - an offense against the person;
  - an offense against the family; or
  - an offense against public administration;
- the person was placed on deferred adjudication community supervision for the misdemeanor offense and subsequently received a dismissal and discharge;
- the person was not required to register as a sex offender as a condition of or as a result of the person's placement on community supervision;
- the person has not been convicted of or placed on deferred adjudication community supervision for an offense other than a fine-only traffic offense committed after the date

of the misdemeanor offense for which the person was placed on community supervision;

- there are no charges pending against the person for the commission of any offense other than a fine-only traffic offense; and
- a period of not less than five years has passed since the date on which the person received the dismissal and discharge.

H.B. 64 requires the person to submit an ex parte petition for expunction to the court that placed the person on deferred adjudication community supervision and sets out the required contents of the petition, which must be verified. The bill requires the court, on finding that the petitioner is entitled to expunction of any arrest records and files that are the subject of the petition, to enter an order directing expunction in a manner consistent with the procedures under state law for expunction of criminal records of a person convicted and subsequently granted relief or pardoned on the basis of actual innocence or a person whose case is dismissed on successful completion of a veterans treatment court program. The bill extends the right of a close relative to seek expunction on behalf of a deceased person to a close relative of a deceased person entitled to an expunction under the bill's provisions. The bill requires the fees relating to an expunction proceeding to be waived if the petitioner is entitled to expunction and the court finds that the petitioner is indigent.

H.B. 64 amends the Business & Commerce Code to extend the applicability of the prohibition against a business entity publishing certain criminal record information to criminal record information with respect to which an order of expunction has been issued under the bill's provisions.

H.B. 64 amends the Government Code to include criminal history record information with respect to which an order of expunction has been issued under the bill's provisions in the scope of statutory provisions requiring a private entity that compiles and disseminates for compensation certain criminal history record information to destroy the information and prohibiting such an entity from compiling or disseminating the information. The bill extends the applicability of the authorization to petition for the expunction of a DNA record to a person entitled under the bill's provisions to the expunction of records relating to the offense to which the DNA record is related.

H.B. 64 applies to an expunction of arrest records and files relating to any misdemeanor offense that occurred before, on, or after the bill's effective date.

#### **EFFECTIVE DATE**

September 1, 2019.