

## **BILL ANALYSIS**

H.B. 3601  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Opportunities for record relief are very limited under current law. While many individuals may be eligible for an order of nondisclosure of criminal history record information, which provides for the sealing of records and removes the records from the public domain, these individuals continue to face barriers in obtaining these orders. For example, even a first-time misdemeanor defendant who completes a period of deferred adjudication community supervision and is entitled to an order of nondisclosure is still required to provide evidence to the court proving their eligibility in the form of a letter, which can be difficult to complete without legal assistance, and pay a fee. Furthermore, it can be difficult to assess one's eligibility under the law. H.B. 3601 seeks to reduce the barriers that these individuals must overcome by automating record relief for individuals currently entitled to orders of nondisclosure of criminal history record information and eliminating certain related requirements, including payment of a fee.

### **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. 3601 amends the Government Code to provide for automatic orders of nondisclosure of criminal history record information issued to an eligible person on completion of deferred adjudication community supervision for certain misdemeanor offenses. The bill requires the Department of Public Safety (DPS) to do the following not later than the 15th day of each month:

- review the records in the DPS computerized criminal history system and, based on the relevant information in the system, to identify and compile a list of each person who meets the criteria to receive such an order of nondisclosure but has not received one; and
- for each person identified on the list, provide to the court that placed the person on deferred adjudication community supervision notice of the person's entitlement to an order of nondisclosure and a copy of the list.

The bill removes the need for the court to make the initial determination of eligibility for an order of nondisclosure, and instead requires DPS to identify persons entitled to relief on a monthly basis. If a person identified by DPS is entitled to an order of nondisclosure the applicable court must issue the order as soon as practicable after receipt of the notice.

H.B. 3601 authorizes a person who is entitled to an automatic order of nondisclosure but who is not identified by DPS as such to present to the applicable court any evidence necessary to establish this entitlement and requires the court to prescribe the manner in which the person may

present the evidence and to determine whether the person satisfies the requirements to be issued the order. If the court makes a finding that the requirements are satisfied, the court must issue the order.

H.B. 3601 replaces the requirement that a person eligible for such an order of nondisclosure pay a \$28 fee to the court clerk before the court issues the order with a prohibition against charging a person entitled to such an order a fee relating to the issuance of the order.

**EFFECTIVE DATE**

January 1, 2022.