

## **BILL ANALYSIS**

H.B. 1715  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

According to the Department of Public Safety, many Texans have accepted deferred adjudication community supervision for misdemeanors and felony arrests. Unfortunately, people frequently believe deferred adjudication will erase their criminal record, which is not true, as deferred adjudication does not remove an initial criminal arrest from a person's record. An individual may file a petition for nondisclosure to limit what entities may access their criminal record. This seals an offense file but allows certain designated entities with a public interest to view the record, such as criminal justice agencies, school districts, public hospitals, and state licensing boards. Unfortunately, this still leaves an indelible mark on a person's record. These people should be allowed to have the stigma associated with an arrest removed and the opportunity to leave their past behind them. H.B. 1715 seeks to remedy this issue by entitling a person who has been placed on deferred adjudication community supervision for a nonviolent misdemeanor offense to expunge all records and files related to their arrest under certain conditions.

### **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. 1715 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 under the Texas Dangerous Drug Act;
  - an offense involving the purchase and sale of human organs, disorderly conduct, public indecency, prohibited weapons, or organized crime; or
  - an offense against the person, the family, or public administration;
- the person was placed on deferred adjudication community supervision for the 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 deferred adjudication 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 commission of the offense for which the person seeks the order of expunction;
- 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. 1715 requires the person seeking the expunction 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 does the following:

- requires a court that finds 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 certain procedures for expunction of criminal records;
- 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; and
- requires the waiver of expunction proceeding fees for a petitioner who is entitled to expunction and the court finds to be indigent.

H.B. 1715 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. 1715 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. 1715 applies to an expunction of arrest records and files relating to any applicable misdemeanor offense that was committed before, on, or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2023.