

BILL ANALYSIS

H.B. 1737
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Opportunities for record relief are very limited under current state 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 eligibility for record relief under the law. H.B. 1737 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. 1737 amends the Government Code to provide for the issuance of automatic orders of nondisclosure of criminal history record information to an eligible person on completion of deferred adjudication community supervision for certain misdemeanor offenses. The bill removes the requirement for the court to make the initial determination of eligibility for the order of nondisclosure and requires the Department of Public Safety (DPS) instead 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. The bill includes as a condition of eligibility that the person not have previously received an order of nondisclosure for such misdemeanor offenses.

H.B. 1737 requires 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, identify each person who meets the eligibility criteria to receive such an order of nondisclosure; and
- provide notice and a list indicating that such persons may be entitled to an order of nondisclosure to the clerk of the court that placed the person on deferred adjudication community supervision.

The bill provides for the identification of a person as eligible for the order of nondisclosure if the DPS computerized criminal history or applicable court records do not indicate that a person received dismissal and discharge.

H.B. 1737 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. 1737 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, 2024.