

BILL ANALYSIS

C.S.H.B. 2507
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2015, the Texas Legislature enacted S.B. 1902, which sought to reduce recidivism, increase public safety, and allow millions of Texans a chance to provide for themselves and their families through increasing access to orders of nondisclosure (OND), also known as the sealing of criminal records. The bill author has informed the committee that since that bill's enactment, data provided by the Department of Public Safety (DPS) shows that among people who have obtained a nondisclosure order in Texas, fewer than one percent were subsequently convicted of a violent felony, showing clear success in the program. The bill author has additionally informed the committee that one provision of S.B. 1902 created a petitionless process for qualifying dismissed misdemeanor cases, but that lacking technology and infrastructure at the time prevented this process from being fully realized. C.S.H.B. 2507 seeks to create the mechanism to fully implement the current OND eligibility criteria already adopted by the legislature under S.B. 1902.

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. 2507 amends the Government Code to revise the eligibility and related procedures for an automatic order of nondisclosure of criminal history record information for a person who has successfully completed deferred adjudication community supervision for certain nonviolent misdemeanor offenses. The bill makes the following changes with respect to such a person's eligibility for the order:

- replaces references to the eligibility for the order with references to an entitlement for the order;
- makes the condition of entitlement that such a person received a dismissal and discharge apply with respect to a dismissal and discharge on or after January 1, 1993, and accordingly subjects such a person who received a dismissal and discharge before that date to the procedures for an order of nondisclosure for deferred adjudication community supervision involving petitioning a court for the order;
- includes as a condition of entitlement that at least 180 days have elapsed from the date the person was placed on deferred adjudication community supervision; and
- includes as a condition of entitlement that the person not have previously received an order of nondisclosure under the procedures for persons who complete deferred adjudication community supervision for certain nonviolent misdemeanors.

C.S.H.B. 2507 makes the following changes with respect to the procedures for an automatic order of nondisclosure for such a person:

- removes the requirement for the court to make the initial determination of eligibility and issue the related finding and requires the Department of Public Safety (DPS) instead to do the following not later than the 15th day of each month:
 - electronically review the records in the DPS computerized criminal history system and, based on the relevant information present in the system, identify each person who satisfies the conditions of entitlement and received a dismissal and discharge on or after January 1, 2028; and
 - electronically provide notice in the manner prescribed by the Office of Court Administration (OCA) to the clerk of the applicable court for each such person indicating that the person satisfies the requirements for an order of nondisclosure under the bill's provisions;
- establishes that, for purposes of DPS' identification of the applicable persons, if the DPS computerized criminal history system records do not indicate whether a person received a dismissal and discharge, the person is considered to have received a dismissal and discharge for entitlement purposes if the applicable records do not contain an order revoking the person's deferred adjudication community supervision and the expiration date for the period of supervision imposed has passed;
- authorizes a person who received a dismissal and discharge on or after January 1, 1993, on completion of deferred adjudication community supervision, to make a request to DPS for a determination as to whether the person satisfies the conditions of entitlement and requires DPS to make a determination based on the relevant information present in the computerized criminal history system and notify the person of the result of that determination;
- requires DPS to electronically notify the clerk of the court that placed the person on deferred adjudication community supervision of the person's entitlement if DPS determines the person satisfies the conditions for entitlement and to prescribe and make publicly available on its website the manner in which a person may request such a determination;
- requires a court that receives from DPS such notice or a notice of the entitlement of a person DPS identified through its computerized criminal history system to issue the order not later than the 15th business day after receipt of the notice; and
- accordingly removes the requirement for a court that finds a person meets the eligibility requirements to issue an automatic order at the time the court discharges and dismisses the proceedings against the person or as soon as practicable on or after the 180th day after the date it placed the person on deferred adjudication community supervision, depending on when the discharge and dismissal occurred.

The bill requires OCA to confer with DPS regarding the content of the electronic notice required under the bill's provisions not later than September 1, 2027. This requirement takes effect September 1, 2025.

C.S.H.B. 2507 replaces the requirement that a person present to the applicable court any evidence necessary to establish that the person is eligible for an automatic order with an authorization to do so with respect to an entitlement to such an order. The bill requires the court to prescribe the manner in which the person may present the evidence, to determine whether the person satisfies the conditions of entitlement, and if it makes such a finding, to issue the order. The bill replaces the requirement that a person pay a \$28 fee to the court clerk before the court issues an automatic order with a prohibition against charging a person entitled to such an order a fee relating to the issuance of the order.

C.S.H.B. 2507 amends the Code of Criminal Procedure to require the information in the DPS computerized criminal history system relating to the disposition of a case in which a judge placed the defendant on deferred adjudication community supervision to include whether an affirmative finding was filed in the papers of the case that it is not in the best interest of justice that the defendant receive an automatic order of nondisclosure.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2028.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2507 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced required DPS, not later than the 15th day of each month, to provide notice and a list to the clerk of the applicable court that placed a person who satisfies the conditions of entitlement and received a dismissal and discharge on or after January 1, 2028, on deferred adjudication community supervision indicating that each person may be entitled to an order of nondisclosure, the substitute instead does the following:

- requires DPS, not later than the 15th day of each month, to electronically provide notice in the manner prescribed by OCA to the clerk of the applicable court indicating that such persons satisfy the requirements for an order;
- requires OCA to confer with DPS regarding the content of the notice not later than September 1, 2027; and
- establishes that the previous requirement takes effect September 1, 2025.