

## **BILL ANALYSIS**

C.S.H.B. 1216  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that eligibility for orders of nondisclosure of criminal history record information should be available to a wider range of victims of human trafficking in order to prevent criminalizing these victims. C.S.H.B. 1216 seeks to accomplish this objective by making certain victims of an offense of trafficking of persons, continuous trafficking of persons, or compelling prostitution eligible to file a petition for such an order and by streamlining the process by which victims of multiple such offenses file the petition.

### **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. 1216 amends the Government Code to revise provisions regarding the procedures whereby a victim of an offense of trafficking of persons placed on community supervision for certain marihuana offenses, certain theft offenses, prostitution, or Class A misdemeanor promotion of prostitution, with respect to whom the conviction is subsequently set aside, may petition an applicable court for an order of nondisclosure on the grounds that the person committed the offense solely as such a victim. The bill removes from the applicability of the revised provisions a person placed on community supervision for the Class A misdemeanor promotion of prostitution and makes the provisions applicable instead to a person who:

- is convicted of or placed on deferred adjudication community supervision for those marihuana or theft offenses or for prostitution; and
- provided assistance, on a law enforcement agency's or prosecuting attorney's request, in the investigation or prosecution of the offenses of trafficking of persons, continuous trafficking of persons, or compelling prostitution or a federal offense containing substantially similar elements or did not provide assistance due to the person's age or a physical or mental disability resulting from being a victim of those offenses.

C.S.H.B. 1216 removes the requirement that a person, in order to petition an applicable court for a nondisclosure order, not be convicted of or placed on deferred adjudication community supervision for any offense other than a fine-only offense during the period after the court pronounced the sentence or placed the person on community supervision for the offense for which the nondisclosure order is requested. The bill expands the grounds on which the petition

may be based to include grounds that the offense was committed solely as a victim of an offense of continuous trafficking of persons or compelling prostitution. The bill authorizes a court, in determining whether a person committed the applicable offense solely as a victim of those offenses, to consider any order of nondisclosure previously granted under the bill's provisions.

C.S.H.B. 1216 revises the petition requirements for such a nondisclosure order to remove the requirement that the person seeking the order assert that the person has not previously received such an order and instead requires the petition:

- to assert that if the person has previously submitted a petition for such an order, the person has not committed an applicable offense on or after the date on which the person's first petition was submitted;
- to be in writing; and
- to allege specific facts that, if proved, would establish that the petitioner committed the applicable offense solely as a victim of an offense of trafficking of persons, continuous trafficking of persons, or compelling prostitution.

C.S.H.B. 1216 changes the time frame in which a person is authorized to petition the applicable court for such an order from only after the person's conviction is set aside to only on or after the first anniversary of the date the person either:

- completed the sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed; or
- received a dismissal and discharge, if the person was placed on deferred adjudication community supervision.

C.S.H.B. 1216 requires the clerk of the court, on the filing of a petition for such an order, to promptly serve a copy of the petition and any supporting document on the appropriate office of the attorney representing the state and requires any response to the petition by the attorney to be filed not later than the 20th business day after the date of service.

C.S.H.B. 1216 authorizes a person who has been convicted of or placed on deferred adjudication community supervision for more than one applicable offense that the person committed solely as a victim of an offense of trafficking of persons, continuous trafficking of persons, or compelling prostitution to file a petition for an order of nondisclosure with respect to each offense and to request consolidation of the person's petitions in a district court in the county where the person was most recently convicted or placed on deferred adjudication community supervision. The bill requires the court, on receipt of such a consolidation request, to consolidate the petitions and exercise jurisdiction over the petitions, regardless of the county in which the applicable offenses occurred. The bill requires the clerk of the court, for each offense that is the subject of a consolidated petition and that occurred in a county other than the county in which the court consolidating the petitions is located, to promptly serve a copy of the consolidated petition and any supporting document related to the applicable offense on the appropriate office of the attorney representing the state on behalf of the other county. The bill authorizes each attorney who receives a copy of a consolidated petition to file a response to the petition not later than the 20th business day after the date of service and requires a district court that consolidates petitions to allow the attorney to appear at any hearing regarding the consolidated petition by telephone or video conference call.

C.S.H.B. 1216 requires a commercially sexually exploited persons court program to provide each program participant with information related to the right to petition for an order of nondisclosure of criminal history record information applicable to certain victims of an offense

of trafficking of persons, continuous trafficking of persons, or compelling prostitution.

C.S.H.B. 1216 amends the Code of Criminal Procedure to entitle a victim of an offense of trafficking of persons, continuous trafficking of persons, or compelling prostitution to be informed that the victim may petition for an order of nondisclosure of criminal history record information if the victim:

- has been convicted of or placed on deferred adjudication community supervision for certain marihuana offenses, certain theft offenses, or prostitution; and
- committed that offense solely as a victim of an offense of trafficking of persons, continuous trafficking of persons, or compelling prostitution.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1216 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the requirements that a person must satisfy to petition a court for a nondisclosure order and the required content of such a petition.

The substitute changes the court in which a person may request a consolidation of petitions for a nondisclosure order from the court of the person's most recent conviction or placement on deferred adjudication community supervision to a district court in the county where the person was most recently convicted or placed on such supervision.

The substitute includes provisions relating to service of a copy of a consolidated petition for a nondisclosure order to the attorney representing the state on behalf of an applicable county and authorizing the attorney to file a response and provisions authorizing a court, in determining the validity of certain grounds for an order under the bill's provisions, to consider any nondisclosure order previously granted under the bill's provisions.

The substitute does not include provisions requiring the Office of Court Administration of the Texas Judicial System to develop and make available an online form for use by a person in filing a petition for a nondisclosure order.