

BILL ANALYSIS

H.B. 1320
By: Moody
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that mental health court programs are underutilized because they are discretionary and lack some of the statutory benefits associated with other specialty courts. H.B. 1320 seeks to encourage the use of these programs by providing for the dismissal of a criminal case and expunction of records after completion of a mental health court program and by requiring the establishment of such programs in certain counties.

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. 1320 amends the Code of Criminal Procedure to entitle a person to expunction of all records and files relating to the person's arrest for the commission of a felony or misdemeanor if:

- the person has been released and there was no final conviction or court-ordered community supervision for the offense, unless the offense is a Class C misdemeanor;
- the court finds that any indictment or information presented following the arrest was dismissed or quashed because the person completed a mental health court program created under the Government Code or former law; and
- the person has not previously received an expunction for completing such a program and submits an affidavit attesting to that fact to the court.

H.B. 1320 authorizes the appropriate trial court or district court, with the state's attorney's consent and not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable, to enter an order of expunction for a person entitled to expunction after successful completion of a mental health court program. The bill prohibits such a court from charging any fee or assessing any cost for the expunction and requires certain expunction proceedings fees to be waived for petitioners entitled to expunction after successful completion of a mental health court program.

H.B. 1320 amends the Government Code to require a mental health court, after notice to the state's attorney and a hearing at which that court determines that a dismissal for a defendant who successfully completes a mental health court is in the best interest of justice, to provide to the court in which the criminal case is pending information about the dismissal, including all

information required about the defendant for the related expunction petition. The bill requires the court in which the criminal case is pending to dismiss the case against the defendant and authorizes the court, with the state's attorney's consent, to either enter the expunction order on the defendant's behalf or forward the appropriate dismissal and expunction information to enable the appropriate district court to enter the expunction order on the defendant's behalf, as applicable.

H.B. 1320 authorizes the commissioners courts of two or more counties to establish a regional mental health court program for the participating counties. The bill requires the commissioners court of a county with a population of more than 200,000 to establish a mental health court program and to direct the judge, magistrate, or court coordinator to provide written notice of the program and certain related information to the criminal justice division of the governor's office, provided the county receives federal or state funding specifically for the establishment and the judge, magistrate, or coordinator receives written verification from the division of the program's compliance. The bill requires such a county to apply for federal and state funds available to pay the program costs and authorizes the division to assist in the application for federal funds. The bill makes a county that does not establish a mental health court program as required and maintain the program ineligible to receive funds for a community supervision and corrections department from the state.

H.B. 1320 applies to the expunction of arrest records and files for a person who successfully completes an applicable mental health court program before, on, or after the bill's effective date but applies to the fees charged or costs assessed for an expunction order entered on or after that date, regardless of when the underlying arrest occurred.

EFFECTIVE DATE

September 1, 2019.