

BILL ANALYSIS

H.B. 176
By: Canales
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been alleged that some prosecutors have been requiring defendants to waive their rights to an order of nondisclosure or expunction as a requirement necessary to be offered alternatives to sentencing. H.B. 176 seeks to address this issue by prohibiting the waiver of those rights as part of an agreement regarding the disposition of criminal charges and by declaring waivers that violate the prohibition void.

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. 176 amends the Code of Criminal Procedure to prohibit a person from waiving, as part of an agreement regarding the disposition of criminal charges based on the person's commission of an alleged offense, any right of the person to an expunction that may exist in relation to that offense on or after the date the waiver is signed, unless the waiver relates solely to records and files in the possession of the attorney representing the state in the person's case. The bill makes void a purported waiver of that right executed in violation of such a prohibition. The bill requires a court to provide in its expunction order that the attorney representing the state may retain the arrest records and files of a person who is the subject of the expunction order if the person has signed such a waiver. The bill exempts such a court-ordered retention of those records and files from the applicability of statutory provisions governing the effect of an order of expunction and the violation of such an order.

H.B. 176 amends the Government Code to prohibit a person from waiving, as part of an agreement regarding the disposition of criminal charges based on the person's commission of an alleged offense, any right of the person to an order of nondisclosure of criminal history record information that may exist in relation to that offense on or after the date the waiver is signed. The bill makes void a purported waiver of that right.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.