

SUBJECT: Creating a process for automatic nondisclosures orders for certain offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Vasut

1 nay — Murr

WITNESSES: For — Terra Tucker, Alliance for Safety and Justice and Texas Clean Slate Coalition; Arianna Mellinger, Statewide Leadership Council; Chris Harris, Texas Appleseed; Devin Driver, Texas Criminal Justice Coalition and Clean Slate Texas; Emily Gerrick, Texas Fair Defense Project; (*Registered, but did not testify:* Nick Hudson, American Civil Liberties Union of Texas; Melissa Shannon, Bexar County Commissioners Court; Clarence Watson, Crime Survivors for Safety and Justice; M Paige Williams, Dallas County Criminal District Attorney John Cruzot; Traci Berry, Goodwill Central Texas; Kathy Mitchell, Just Liberty; Tom Maddox, Sheriffs Association of Texas; Maggie Luna, Statewide Leadership Council; Lori Henning, Texas Association of Goodwills; Shea Place, Texas Criminal Defense Lawyers Association; Donald Garner, Texas Faith & Freedom Coalition; Derek Cohen, Texas Public Policy Foundation; Molly Weiner, United Ways of Texas; Thomas Parkinson)

Against — None

BACKGROUND: Government Code sec. 411.072 establishes procedures relating to courts issuing orders of nondisclosure for individuals placed on deferred adjudication community supervision for certain nonviolent misdemeanors. These orders prohibit criminal justice agencies from disclosing to the public criminal history record information related to the offense. Sec. 411.072(a) requires courts to issue an order of nondisclosure if such an individual received a discharge and dismissal of their deferred adjudication and satisfied the other requirements in the statute.

Concerns have been raised that the process and fees required under current

law impose barriers to individuals who are entitled to an order.

DIGEST:

HB 3601 would revise provisions relating to orders of nondisclosure for those who receive a discharge and dismissal of a deferred adjudication community supervision for certain misdemeanor offenses and who meet other statutory requirements. The bill would establish procedures for an automatic order of nondisclosure under these circumstances.

By the 15th day of each month, the Department of Public Safety (DPS) would be required to review the records in the department's computerized criminal history system and compile a list of those who meet the criteria to receive an automatic order of nondisclosure and had not received one. For each person, DPS would have to provide notice to the court of the person's entitlement to an order of nondisclosure and a copy of the list.

As soon as practicable after receiving a notice from DPS, a court would have to issue an order of nondisclosure. Individuals who were entitled to an order of nondisclosure but were not identified by DPS could present evidence to the court of their eligibility for an order. The court would have to determine the manner in which such an individual could present evidence to the court. The court would be required to determine whether the person satisfied requirements for an order, and if the court found that the requirements of this section were satisfied, it would have to issue an order of nondisclosure as soon as practicable after making the finding.

The bill would eliminate the current fee of \$28 that is paid to the court clerk and would prohibit a fee for those entitled to an automatic order of nondisclosure under the bill's provisions.

The bill would take effect January 1, 2022.