

SUBJECT: Amending the process for issuing orders of nondisclosure

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline
0 nays

WITNESSES: For — Terra Tucker, Alliance for Safety and Justice; Pamela Bryant, Ma Lisa Perez, Clarence Watson, Crime Survivors for Safety and Justice; David Emerick, JPMorgan Chase & Co.; Tracie Walton, Statewide Leadership Council; Sarah Mae Jennings, Texas Fair Defense Project; Nikki Pressley, Texas Public Policy Foundation, Right on Crime; *(Registered, but did not testify:* Lauren Johnson, ACLU of Texas; Daniel Hodge, Alliance for Safety and Justice; Samuel Sheetz, Americans for Prosperity; M Paige Williams, Dallas Criminal District Attorney John Creuzot; Justin Keener, Doug Deason; Jennifer Carreon, Texas Appleseed; Alycia Castillo, Texas Center for Justice and Equity; Jennifer Fagan, Texas Construction Association; Shea Place, Texas Criminal Defense Lawyers Association; Dr. Howard Henderson, The Center for Justice Research)

Against — *(Registered, but did not testify:* Lindy Borchardt, Phil Sorrells)

On — Russell Schaffner, Tarrant County

DIGEST: HB 1737 would amend the process for the issuance of orders of nondisclosure of criminal history record information for certain eligible misdemeanor defendants.

The bill would remove the requirement that a person present evidence to a court establishing entitlement for an order of nondisclosure as well as the requirement that the court make a determination of eligibility. Instead, the Department of Public Safety (DPS) would be required, not later than the 15th day of each month, to review the records in their computerized

criminal history system, identify each person who met the eligibility criteria to receive an order of nondisclosure, and provide notice and a list to the applicable court clerk of each person eligible for relief. The court would be required as soon as practicable after receipt of notice to issue the order of nondisclosure for the applicable person. An individual who had previously received an order of nondisclosure would not be entitled to receive another order.

If the computerized criminal history system or applicable court records did not indicate whether a person received a dismissal or discharge following a period of deferred adjudication, the person would be considered as having satisfied the requirements for an order of nondisclosure of criminal history if:

- the applicable court records did not contain an order revoking the person's deferred adjudication community supervision; and
- the date on which the period of deferred adjudication community supervision imposed on the person had expired or elapsed.

An individual eligible for an order of nondisclosure who was not identified by DPS as such would be authorized to present to the applicable court any evidence necessary to establish this entitlement. The court would be required to establish the manner in which the person may present evidence to the court, whether the person satisfied the requirements for an order of nondisclosure, and, upon a positive determination, issue the order as soon as practicable.

HB 1737 would prohibit a court from charging a person entitled to an order of nondisclosure any fee related to the issuance of the order.

The bill would take effect January 1, 2024.

**SUPPORTERS
SAY:**

HB 1737 would eliminate barriers to record relief for individuals who are currently entitled to orders of nondisclosure. In order to gain an order of nondisclosure, which allows for the sealing of certain criminal records, current law requires an individual to submit evidence to the court proving

their eligibility. This petition-based system is complicated and costly, as the process can be difficult to complete without legal assistance and filing requires a fee. Many individuals who are eligible for record relief do not know whether they are eligible or choose not to go through the process due to these barriers. By automating the process and removing related fees, HB 1737 would ensure that eligible individuals secured the record relief to which they were entitled.

The bill would help certain Texans with criminal records pursue economic opportunities and avoid future contact with the criminal justice system. Criminal records can impact an individual's ability to access employment, housing, public assistance, and continuing education, which can limit earning potential and keep individuals with records in a cycle of instability. Automating the record sealing process would enable first-time offenders who committed a non-violent misdemeanor offense to obtain gainful employment and advance their careers, which could boost the economy and alleviate labor shortages. Additionally, record sealing is often associated with reduced recidivism, as it can lessen the likelihood that an individual will commit another crime. By removing this barrier for certain individuals with records, HB 1737 would enable these Texans to successfully reenter their communities and help to increase public safety.

**CRITICS
SAY:**

HB 1737 would remove certain safeguards from the procedure for orders of nondisclosure of criminal history information. By automating the process for record relief, the bill would remove the opportunity for prosecutors and defense counsel to provide input on the issue, confirm an individual's eligibility, or determine whether such an order was in the best interest of justice. The bill also could place an additional burden of labor onto DPS.