

## **BILL ANALYSIS**

H.B. 1907  
By: Anchía  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Participants who successfully complete a pretrial intervention program such as a veterans court, mental health court, or drug court are currently told by the judge only that they qualify for an expunction, leaving the participant to maneuver the expunction process on their own with great costs in obtaining counsel and filing a petition. Few follow through with the process due to a limited understanding and the associated costs and time. In addition, while current law authorizes a court to order the expunction of arrest records for a person who completes such a program due to the stringent eligibility requirements, success of the programs, and low recidivism rates, it does not require the order of expunction nor does it make the process automatic. H.B. 1907 seeks to eliminate the need for additional steps and costs for an expunction, ensuring that successful participants can start on their new path freed from the burden of a criminal history. The legislation removes the barriers successful participants currently face in the expunction process and creates a streamlined process for successful participants in pretrial intervention programs in which the judge issues an order of expunction at the same time the case is dismissed. This process is already used with acquittal expunctions and is more in line with the intent of pretrial intervention programs.

### **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. 1907 amends the Code of Criminal Procedure to provide for the automatic expunction on order of an applicable trial court judge of arrest records and files, applicable regardless of when the underlying arrest occurred, for the following persons whose successful completion of the respective program entitles the person to expunction:

- a person entitled to an expunction under current law because the person has successfully completed before, on, or after the bill's effective date a veterans treatment court program or a mental health court program; and
- a person entitled to an expunction, as provided by the bill, because the person has successfully completed before, on, or after the bill's effective date a pretrial intervention program authorized by a community supervision and corrections department, other than a veterans treatment court program or a mental health court program.

H.B. 1907, accordingly, makes the entry of such an order mandatory and applicably removes the provisions in current law giving the applicable trial court the discretion, with the consent of

the respective state's attorney, to enter an expunction order for a person entitled to the expunction because the person successfully completed a veterans treatment court program or mental health court program. The state's attorney must prepare an expunction order for the court's signature and the order must be entered not later than the 30th day after the date the court dismisses the person's case or receives information regarding that dismissal, as applicable. In addition, the bill does the following:

- makes its automatic expunction provisions also applicable to a person currently entitled to a discretionary expunction because the person successfully completed an authorized pretrial intervention program other than a veterans treatment court program or a mental health court program; and
- requires an applicable trial court dismissing a case following a person's successful completion of that pretrial intervention program to enter an order of expunction for the person not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable.

Furthermore, for a person entitled to expunction based on the person successfully completing, before the bill's effective date, an applicable program and notwithstanding the 30-day time limit provided for the applicable trial court to enter an automatic order of expunction, the court must enter the required order of expunction for the person as soon as practicable after the court receives written notice from any party to the case about the person's entitlement to the expunction.

H.B. 1907 authorizes a community supervision and corrections department or an office of an attorney representing the state that is in possession of records and files subject to an expunction order based on a person's entitlement to an expunction following successful completion of an applicable program to retain and use those records and files only for the purpose of developing and operating pretrial intervention programs in a judicial district served by the department or office.

H.B. 1907 retains the following with respect to fees and costs for an expunction for persons entitled to an expunction based on the person's entitlement to expunction because the person successfully completed an applicable program and makes them applicable instead to fees and costs for automatic expunction under the bill's provisions:

- prohibitions in current law against charging any fee or assessed cost for an expunction; and
- applicable waivers expressly provided in current law for fees in expunction proceedings.

The bill revises the scope of the prohibition and revises the waiver provision to include fees or assessed costs charged with respect to a person entitled under the bill's provisions to an automatic expunction based on the person's entitlement for expunction because the person successfully completed an applicable pretrial intervention program other than the veterans treatment court program or a mental health court program. Moreover, the revised waiver provision applies to the fees charged or costs assessed for an expunction order with respect to that person entered on or after the bill's effective date, regardless of whether the underlying arrest occurred before, on, or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2023.