

SUBJECT: Requiring courts to order record expunction for certain persons

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Bhojani, Bowers, Darby, Harrison
0 nays
4 absent — Cook, Leach, C. Morales, Schatzline

WITNESSES: For — M Paige Williams, Dallas County Criminal District Attorney John Creuzot (*Registered, but did not testify*: Terra Tucker, Alliance for Safety and Justice; Adam Haynes, Conference of Urban Counties; Luis Soberon, Texas 2036; Jennifer Carreon, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Sarah Mae Jennings, Texas Fair Defense Project; Julie Wheeler, Travis County Commissioners Court; Susana Carranza)

Against — (*Registered, but did not testify*: Buddy Mills, Sheriffs Association of Texas)

On — Larry Phillips

BACKGROUND: Code of Criminal Procedure art. 55.02 establishes that a trial court may, with the consent of the state’s attorney, enter an order of expunction for a person who successfully completed a veterans treatment court program or mental health court program. Such individuals can file a petition for expunction with the court.

Some have suggested that courts should be required to issue orders of expunction for entitled individuals who complete pretrial intervention programs.

DIGEST: HB 1907 would revise the procedures for record expunction for individuals who completed certain pretrial intervention programs.

The bill would remove the provisions that allowed an applicable trial court, with the consent of the state's attorney, to enter an order of record expunction for a person who completed a veterans treatment court program or mental health court program. Instead, the bill would require the trial court to enter the order of expunction for persons who successfully completed such programs.

HB 1907 also would extend automatic expunction to individuals who successfully completed a pretrial intervention program other than a veterans court or mental health court program. The trial court would be prohibited from charging a fee or assessing any cost for record expunction.

The applicable trial court would be required to enter the order of expunction within 30 days after the date the court dismissed the case or received the information regarding the dismissal. The person eligible for record expunction would be required to provide to the state's attorney all the information required for a petition for expunction, including identifying information and information relating to the offense. The state's attorney would be required to prepare the order for the court's signature.

HB 1907 would allow a community supervision and corrections department or a prosecuting attorney's office to retain and use records and files subject to an expunction order under this bill. Such records could only be retained for the purpose of developing or operating pretrial intervention programs in the judicial district of the department or office.

For individuals entitled to expunction after successful completion of a pretrial intervention program, HB 1907 would require that fees associated with filing the petition be waived. This change would apply to fees charged or costs assessed for an expunction order entered on or after September 1, 2023, regardless of whether the underlying arrest occurred before, on, or after that date.

The bill would apply to the expunction of arrest records and files for a person who successfully completed a veterans treatment court program,

mental health court program, or pretrial intervention program before, on, or after September 1, 2023. For a person who completed such a program before September 1, 2023, the court shall enter the required order of expunction as soon as practicable after the court received written notice of the person's entitlement to expunction.

The bill would take effect September 1, 2023.