

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 977
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The order of nondisclosure was approved by the legislature in 2003. An order of nondisclosure seals the records of an offense where a term of court-ordered community supervision was successfully completed under deferred adjudication. When an order of nondisclosure is in place, many private sector employers and some governmental entities are no longer able to access the records of a sealed misdemeanor or felony offense.

Since 2003, more than 29,000 orders of nondisclosure have been issued. But this number is low, considering that advocates claim that more than two million people in Texas have received and completed deferred adjudication. In the two-year period beginning September 2010, more than 250,000 defendants received deferred adjudication on non-traffic related offenses. The goal of this bill proposal is to improve and increase access to the courts to petition for an order of nondisclosure.

C.S.S.B. 977 allows a person who petitions the court for an order of nondisclosure the options of doing so in person, through the mail, or electronically. This bill requires the Office of Court Administration to develop a standard form that can be used to file electronically or by mail to apply to the courts for an order of nondisclosure, and make that form available on its Internet website.

C.S.S.B. 977 amends current law relating to the procedure used to petition for an order of nondisclosure of criminal history record information.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.081, Government Code, by amending Subsection (d) and adding Subsection (f-1), as follows:

(d) Authorizes a person, except as provided by Subsection (e) (relating to a person's entitlement to petition the court), to petition the court for an order of nondisclosure regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. Requires the court, after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. Deletes existing text authorizing a person to petition the court that placed the person on deferred adjudication for an order on nondisclosure on payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. Authorizes the payment to be made only on or after the completion of certain criteria. Makes nonsubstantive changes.

(f-1) Authorizes a person who petitions the court for an order of nondisclosure under Subsection (d) file the petition in person, electronically, or by mail. Requires that the petition be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. Requires the Office of Court Administration of the Texas Judicial System (OCA) to prescribe a form for the filing of a petition electronically or by mail. Requires that the form provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by OCA, including evidence that the person is entitled to file the petition. Requires OCA to make available on its Internet website the electronic application and printable application form. Requires each county or district clerk's office that maintains an Internet website to include on that website a link to the electronic application and printable application form available on OCA's Internet website. Requires the court, on receipt of a petition under this subsection, to provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. Requires the court to hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that the defendant is entitled to file the petition and the order is in the best interest of justice.

SECTION 2. Provides that the change in law made by this Act applies to a person who petitions the court for an order of nondisclosure on or after the effective date of this Act, regardless of whether the person is placed on deferred adjudication community supervision before, on, or after that date.

SECTION 3. Effective date: September 1, 2013.