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FACT SHEET 2017

HB 1404

Increase Opportunities for Hard-Working Individuals with Criminal Records By Providing Orders of Nondisclosure for First-Time Misdemeanor Offenses

ACCESS TO ORDERS OF NONDISCLOSURE

There are indisputable barriers to success for people with criminal records. Even people convicted of misdemeanor offenses in Texas will have difficulty, or be absolutely barred from, obtaining employment or a place to live, receiving a license for a particular occupation, obtaining certain types of educational assistance, or receiving federal or state benefits for basic human needs. Recognizing this, Texas has created a system by which criminal records can be sealed from the public through an order of nondisclosure.¹ The opportunity to petition for an order of nondisclosure provides an incentive for individuals to remain law-abiding by requiring that no additional crimes be committed after the offense at hand.

KEY FINDINGS

- **The eligibility criteria to petition for an order of nondisclosure needlessly lock out individuals who satisfied their obligations through fine-only sentences.**
- **Further, people who have been convicted in the past and satisfied their obligations may not be eligible for nondisclosure solely because they were convicted prior to specific modifications to the Order of Nondisclosure statute in September 2015.**
 - » Only some types of offenses are currently eligible for nondisclosure; certain violent and sex-related offenses are ineligible.²
 - » Even if the offense for which the petition is filed is eligible for nondisclosure, an individual can still be disqualified by his or her criminal history — including any record of certain violent or sex-related offenses — or a conviction or placement on deferred adjudication during the waiting period prior to eligibility (does not include traffic tickets).³
- **Few orders of nondisclosure are issued compared to the number of eligible offenses.**
 - » The Texas Department of Public Safety reported that it had only received a total of 8,842 orders of nondisclosure over a two-year period (2012 and 2013).⁴

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1404 BY REPRESENTATIVE ALLEN

- HB 1404 will provide a second chance for those who are convicted of a misdemeanor for the very first time **so long as they have completed their sentence and met the required waiting periods.**
- HB 1404 would also make eligible those individuals who have been convicted of certain first-time misdemeanors, regardless of sentence type (deferred adjudication, regular probation, incarceration, or fine-only).
- HB 1404 would make this eligibility for orders of nondisclosure retroactive to help more people access stable housing and contribute to the Texas workforce.

Citations

¹ [Tex. Gov't. Code, § 411.081](#).

² *Ibid*, at § [411.081\(e\)](#). Ineligible offenses include an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure; an offense under Section 20.04, Penal Code (aggravated kidnapping); an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code (murder; capital murder; injury to a child, elderly individual, or disabled individual; abandoning or endangering a child; violation of certain court orders or conditions of bond in a family violence case; repeated violation of certain court orders or conditions of bond in a family violence case; stalking); and any other offense involving family violence, as defined by Section 71.004, Family Code.

³ *Ibid*.

⁴ Texas Department of Public Safety (DPS), Letter to the Lieutenant Governor and Speaker of the House dated May 30, 2014, reporting the number of petitions and orders for nondisclosure received by DPS in 2012 and 2013. DPS received 4,414 orders of nondisclosure in 2012 and 4,428 orders in 2013.