

BILL ANALYSIS

C.S.H.B. 2509
By: Parker
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that victims of human trafficking who accrue prostitution, theft, and drug possession convictions as a direct result of their trafficking victim status often continue to be treated as criminals after they have escaped the human trafficking environment. The parties note that these convictions often stand in the way of obtaining a stable living environment, maintaining employment in desirable fields, obtaining certain professional licenses, pursuing a higher education, and several other pursuits. C.S.H.B. 2509 seeks to remedy this situation by extending to these victims the authorization to petition a court for an order of nondisclosure of criminal history record information.

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

C.S.H.B. 2509 amends the Government Code to extend the authorization to petition a court for an order of nondisclosure of criminal history record information on the grounds that a person committed an offense solely as a victim of trafficking of persons to a person who on conviction of one of the following offenses is placed on community supervision and the conviction of which is subsequently set aside by the court: theft; unauthorized use of a vehicle; possession, manufacture, or distribution of certain instruments used to commit retail theft; organized retail theft; unauthorized acquisition or transfer of certain financial information; or certain offenses under the Texas Controlled Substances Act.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2509 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 411.0728(a), (c), and (d), Government Code, are amended to read as follows:

(a) This section applies only to a person: (1) who on conviction for an offense under Section 31.03, 31.07, 31.15, 31.16, 31.17, or 43.02, Penal Code, or Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, 481.119, or 481.121, Health and Safety Code,

is placed on community supervision under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure;[;] and

(2) with respect to whom the conviction is subsequently set aside by the court under Article 42A.701, Code of Criminal Procedure [~~Section 20(a) of that article~~].

(c) After notice to the state, an opportunity for a hearing, and a determination by the court that the person committed the offense solely as a victim of trafficking of persons and that issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the defendant was placed on community supervision as described by Subsection (a) [under Section 43.02, Penal Code, giving rise to the community supervision].

(d) A person may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section only after the person's conviction [~~under Section 43.02, Penal Code,~~] is set aside as described by Subsection (a).

SECTION 2. The change in law made by this Act applies to a person whose conviction for an offense is set aside under Article 42A.701, Code of Criminal Procedure, on or after the effective date of this Act, regardless of when the person committed the offense for which the person was convicted.

SECTION 3. To the extent of any conflict,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 411.0728(a), (c), and (d), Government Code, are amended to read as follows:

(a) This section applies only to a person: (1) who on conviction for an offense under Section 31.03, 31.07, 31.15, 31.16, 31.17, or 43.02, Penal Code, or an offense punishable under Section 481.115(b) or (c), 481.1151(b)(1) or (2), 481.116(b) or (c), 481.1161(b)(1) or (2), 481.117(b) or (c), 481.118(b) or (c), 481.119(b), or 481.121(b)(1) or (2), Health and Safety Code,

is placed on community supervision under Chapter 42A [~~Article 42.12~~], Code of Criminal Procedure;[;] and

(2) with respect to whom the conviction is subsequently set aside by the court under Article 42A.701, Code of Criminal Procedure [~~Section 20(a) of that article~~].

(c) After notice to the state, an opportunity for a hearing, and a determination by the court that the person committed the offense solely as a victim of trafficking of persons and that issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the defendant was placed on community supervision as described by Subsection (a) [under Section 43.02, Penal Code, giving rise to the community supervision].

(d) A person may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section only after the person's conviction [~~under Section 43.02, Penal Code,~~] is set aside as described by Subsection (a).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.