

- SUBJECT:** Expanding nondisclosure orders for certain human trafficking victims
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Pacheco
- 0 nays
- 1 absent — Murr
- SENATE VOTE:** On final passage, April 17 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *On House companion bill, HB 1216:*
For — Shea Place, Texas Criminal Defense Lawyers Association; Marc Levin, Texas Public Policy Foundation; (*Registered, but did not testify:* Nick Hudson, American Civil Liberties Union of Texas; Christel Erickson Collins, Austin Justice Coalition; Pete Gallego, Bexar County Criminal District Attorney’s Office; Jason Sabo, Children at Risk; Gus Reyes, Christian Life Commission, Texas Baptists; Chris Jones, CLEAT; Ann Hettinger, Concerned Women for America; Traci Berry, Goodwill Central Texas; Chris Harris, Just Liberty; John Clark, Operation Texas Shield; James Dickey, Republican Party of Texas; Jimmy Rodriguez, San Antonio Police Officers Association; Chris Kaiser, Texas Association Against Sexual Assault; Lori Henning, Texas Association of Goodwills; Allison Franklin, Texas Criminal Justice Coalition; Lonzo Kerr, Texas NAACP; Kyle Ward, Texas PTA; Alexis Tatum, Travis County Commissioners Court; Idona Griffith)
- Against — None
- BACKGROUND:** Government Code sec. 411.0728 establishes a procedure for certain victims of human trafficking to request an order of nondisclosure for their criminal history records. The requests are authorized for persons placed on probation after conviction for certain offenses that the requestor can show were committed solely as a victim of human trafficking. The requestor

also must not have received a previous nondisclosure order under sec. 411.0728. The orders are available for those convicted of certain marijuana, theft, prostitution, and promotion of prostitution offenses.

DIGEST:

SB 1801 would revise statutes governing orders of nondisclosure for certain victims of human trafficking. The bill would expand provisions that currently apply only to defendants who were placed on community supervision (probation) and instead apply them to all defendants who were convicted or placed on deferred adjudication. It also would expand the orders to include victims of compelled prostitution.

The bill would eliminate authorization for those convicted of the promotion of prostitution by soliciting an individual to engage in sex with another person to receive an order of nondisclosure through provisions that relate specifically to victims of human trafficking.

The bill also would revise requirements for an order of nondisclosure to be granted. If requested, defendants first would have to assist in the investigation or prosecution of human trafficking, continuous human trafficking, or compelling prostitution. An exception would be made for defendants who did not provide assistance due to their age or a physical or mental disability that was a result of being a victim of an offense.

SB 1801 would modify which standard conditions for receiving an order of nondisclosure were required of victims of trafficking or compelling prostitution. The bill would eliminate the current condition that orders are granted only if while on probation and during any waiting period, the person was not convicted of or placed on deferred adjudication community supervision for any offense other than a traffic offense that is punishable by fine only. Current provisions prohibiting orders of nondisclosure for certain offenses would remain.

The bill also would allow requests for nondisclosure orders for more than one offense. The bill would allow multiple requests to be consolidated and filed in one court, and petitions would have to be filed at least one year after the victim completed a sentence or had the charges dismissed.

Prosecutors would have to be notified of a petition for an order of nondisclosure and given a chance to respond.

SB 1801 would establish the conditions that had to be met for a court to issue an order of nondisclosure for victims of human trafficking, including that the requestor committed the offense solely as a victim of human trafficking, continuous human trafficking, or compelling prostitution and that the nondisclosure be in the best interest of justice.

The bill would include notification about the potential for an order of nondisclosure among statutory crime victims' rights and among the duties for court programs operated for commercially sexually exploited persons.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

SB 1801 would broaden and simplify the process by which victims of trafficking could obtain orders of nondisclosure. The bill would implement one of the recommendations of the Texas Human Trafficking Prevention Task Force, which has been working since 2009 to fight human trafficking. Texas has made strides in attacking this form of modern-day slavery and supporting its victims, and the bill would continue this progress.

Those who would fall under the bill's provisions have committed low-level crimes solely due to being a victim of human trafficking or of compelled prostitution, and they deserve to be able to ask a court to close their criminal records even if they did not receive probation. The bill would expand the orders to include victims of compelled prostitution because that offense is similar to human trafficking. Allowing these victims to ask a court to keep their criminal records closed would help them put their lives back together without the collateral consequences that can accompany a criminal record. The bill would ensure that it was used only in appropriate cases by requiring that an order be in the best interest of justice and requiring that prosecutors be notified and able to respond to a request.

The bill would streamline the nondisclosure request process by allowing requests relating to multiple records to be consolidated into one. This would benefit victims by allowing them to navigate the courts only once and would aid in conserving judicial resources.

The bill includes appropriate exceptions to the requirement that victims work with law enforcement authorities. Individual circumstances of victims would be considered because cooperation would not be required of those who did not provide assistance due to age or physical or mental disability resulting from being a victim of an offense.

**OPPONENTS
SAY:**

The ability to request orders of nondisclosure should not be conditioned on a victim working with law enforcement authorities. In some cases, victims deserving of an order of nondisclosure may be afraid of harm from their traffickers, even if the trafficker is behind bars, and not feel safe working with the authorities.