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**FACT SHEET 2017**

**HB 1426**

## **Reduce Barriers to Economic Opportunity for Rehabilitated Individuals**

***HB 1426 will allow Texans to become self-sufficient, taxpaying members of the workforce through Certificates of Relief.***

### LIMITS ON OCCUPATIONAL LICENSES

Approximately 4.7 million adults in Texas have a criminal record,<sup>1</sup> all of whom may face difficulty getting an interview for a position with a Texas employer. In fact, more than 25 percent of occupations in Texas require state licensure, and a criminal history serves as an automatic bar for most licenses.<sup>2</sup>

Overly prohibitive licensing policies limit opportunities for people who have fully served their time and who want to become contributing members of society. This has significant consequences: Previously incarcerated individuals who are unemployed are more likely to re-offend than those who are employed,<sup>3</sup> creating more instability for returning individuals and their families, as well as for the Texas workforce.

### LIMITED ACCESS TO ORDERS OF NONDISCLOSURE

In recognizing the barriers to success for people with criminal records, Texas has created a system by which criminal records can be sealed from the public through an order of nondisclosure.<sup>4</sup> **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.**

However, the eligibility criteria to petition for an order of nondisclosure are strict and inaccessible to many. To be eligible, an individual must have successfully completed deferred adjudication community supervision, resulting in dismissal and discharge of the case.<sup>5</sup> An individual must also wait a designated amount of time after the charge is dismissed—five years for felonies and two years for certain misdemeanors.<sup>6</sup>

### COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1426 BY REPRESENTATIVE ALLEN

Texas should establish Certificates of Relief to help individuals who have fully served their sentence become responsible, contributing members of the community. Specifically, such Certificates should provide applicants with a restoration of the rights and abilities that were forfeited as a result of their criminal conviction, including:

- (1) **The ability to apply for occupational licenses that would otherwise have been prohibited due to one's conviction.** Over one-third of working-age men are unemployed because of their criminal background.<sup>7</sup> Using \$53,707 as the per-capita GDP,<sup>8</sup> Texas loses over \$3 billion in GDP annually.<sup>9</sup> A person's criminal history should not be the exclusive trigger for denying a professional license. Under HB 1426, individuals who want to be on a productive path will have the opportunity to contribute to the Texas workforce.
- (2) **The right to apply for an order of nondisclosure.** Those granted a Certificate should be immediately eligible to petition the court for an order of nondisclosure of their criminal history record as it relates to the offense. HB 1426 will open the door to safe, stable employment, thereby reducing recidivism and further strengthening the economy.

#### IN SHORT

- HB 1426 will expand Texans' ability to get occupational licenses and contribute to the workforce.
- HB 1426 will create a pathway to an order of nondisclosure for Texans who have demonstrated rehabilitation.

## Citations

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- <sup>1</sup> Helen Gaebler, “Criminal Records in the Digital Age: A Review of Current Practices and Recommendations for Reform in Texas,” The University of Texas School of Law, 2013, 2, <https://law.utexas.edu/wp-content/uploads/sites/32/2016/08/criminalrecords-1.pdf>.
- <sup>2</sup> National Employment Law Project, “The Consideration of Criminal Records in Occupational Licensing,” <http://www.nelp.org/content/uploads/TheConsiderationofCriminalRecordsinOccupationalLicensing.pdf>.
- <sup>3</sup> Mark Berg and Beth Huebner, “Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism,” *Justice Quarterly* 28, no. 2 (2011): 397, <http://www.pacific-gateway.org/reentry,%20employment%20and%20recidivism.pdf>.
- <sup>4</sup> [Tex. Gov’t Code, § 411.081](#).
- <sup>5</sup> [Tex. Gov’t Code, § 411.081\(d\)](#).
- <sup>6</sup> *Ibid*, at § [411.081\(d\)\(2\)](#), [\(3\)](#). The two-year waiting period applies to misdemeanors under Chapter 20, 21, 22, 25, 42, or 46 of the Penal Code (offenses related to kidnapping and unlawful restraint, sexual offenses, assaultive offenses, offenses against the family, disorderly conduct and related offenses, and weapons). All other misdemeanors are not subject to a waiting time (see § 411.081(d)(1)).
- <sup>7</sup> Kaiser Family Foundation/New York Times/CBS News, “Non-Employed Poll,” <http://kff.org/other/poll-finding/kaiser-family-foundationnew-york-timescbs-news-non-employed-poll/>.
- <sup>8</sup> Department of Numbers, “Texas GDP,” <http://www.deptofnumbers.com/gdp/texas/>.
- <sup>9</sup> Bureau of Labor Statistics, “Employment Status of the Civilian Noninstitutional Population by Sex, Race, Hispanic or Latino Ethnicity, Marital Status, and Detailed Age, 2015 Annual Averages,” <https://www.bls.gov/lau/table14full15.pdf>.