



Jorge Renaud, Policy Analyst
Work: (512) 441-8123, ext. 102
Cell: (512) 825-6586
jrenaud@TexasCJC.org
www.TexasCJC.org

FACT SHEET 2013
S.B. 1172

Increase Opportunities for Hard-Working Individuals with Criminal Records By Providing Non-Disclosure for Certain Offenses and Judgements

INDIVIDUALS WHOSE CONVICTIONS HAVE BEEN “SET ASIDE” SHOULD BE ALLOWED TO HAVE RECORDS SEALED

There are indisputable barriers to success for people with criminal records, even if time was served on community supervision. Depending on the crime, a person will have a difficult time, or be absolutely barred from, finding housing or employment; becoming licensed for a particular occupation; obtaining an educational loan; or receiving federal or state benefits for basic human needs.¹

In recognition of this, Texas courts have the option of ordering the criminal record of an individual to be sealed when a person has successfully completed a term of deferred adjudication and petitioned for an order of non-disclosure.²

However, a court can also decide to exercise the option of a “set aside”: After a defendant has completed at least one-third of a community supervision term, the judge sets aside the verdict or permits the defendant to withdraw the plea,³ which will result in a guilty plea, although with a release from all penalties and disabilities. **A conviction that has been set aside has no available legal remedy, remains available for public disclosure, and is included in a criminal history search.** It cannot be sealed or expunged.

KEY FINDINGS

- **Criminal records compromise an individual’s ability to enter the workforce.**⁴ Individuals with a conviction cannot qualify for many employment positions that require licenses (including air conditioning and refrigeration contractors, electricians, water well drillers, dog trainers, and many others),⁵ leaving many returning individuals scrambling to find employment.
- **Criminal records also destabilize Texans by creating barriers to safe housing.** Under statutes in all 50 states, rental property owners may – but are not required to – screen for and refuse to rent to people with criminal backgrounds.⁶
- **An estimated 4.7 million adults in Texas** have some kind of recorded criminal history,⁷ and 1.7 million of those adults are living with a record for a felony conviction.⁸

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT S.B. 1172 BY SENATOR WEST

- **S.B. 1172 will close a current gap in Texas law, allowing defendants whose convictions have been “set aside” to be eligible for an order of non-disclosure, and thus be fully released from all penalties and disabilities resulting from their conviction, as intended by law.** Individuals with a misdemeanor conviction are eligible for an order of non-disclosure immediately after the conviction is set aside, while individuals with a felony offense must wait five years after the set-aside. This bill will give a fair chance to thousands of Texans who have overcome their past mistakes, enabling them to access safe housing, become gainfully employed, and contribute to Texas communities in positive ways.

Citations on reverse.

Citations

¹ National Institute of Justice and the American Bar Association, *National Inventory of the Collateral Consequences of Conviction*, 2012, <http://www.abacollateralconsequences.org/>.

² Tex. Gov. Code § 411.081(d)

³ Tex. Code of Crim. Procedure, § 42.12, Section 20

⁴ Michael Pinard, *Reflections and Perspectives on Reentry and Collateral Consequences*, *The Journal of Law and Criminology*, Vol. 100, No. 3, Northwestern University, School of Law, 2010, p. 1215.

⁵ TEX. OCC. CODE, 53.021 (c)(3)

⁶ Reentry Policy Council, *Report of the Re-entry and Community Policing: Strategies for Enhancing Public Safety*, March 2006, <http://www.urban.org/publications/411061.html>.

⁷ *Working with Conviction: Criminal Offenses as Barriers to Entering Licensed Occupations in Texas*, Texas Public Policy Foundation, Policy Perspective (Nov. 2007) at 1, <http://www.texaspolicy.com/center/effective-justice/reports/working-conviction>.

⁸ This represents a rough estimate based on 2000 data available through the Texas Department of Criminal Justice. Criminal Justice Policy brief, Texas LULAC State Executive Office (Aug. 2004) at n. 57, <http://realcostofprisons.org/materials/LULAC.pdf>.

The 2011 Texas adult population (18 years and older) was approximately 18.7 million. U.S. Census, <http://quickfacts.census.gov/qfd/states/48000.html>.