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**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.<sup>1</sup>

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.<sup>2</sup>

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,<sup>3</sup> 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.**<sup>4</sup> 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),<sup>5</sup> 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.<sup>6</sup>
- **An estimated 4.7 million adults in Texas** have some kind of recorded criminal history,<sup>7</sup> and 1.7 million of those adults are living with a record for a felony conviction.<sup>8</sup>

### **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

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

<sup>2</sup> Tex. Gov. Code § 411.081(d)

<sup>3</sup> Tex. Code of Crim. Procedure, § 42.12, Section 20

<sup>4</sup> 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.

<sup>5</sup> TEX. OCC. CODE, 53.021 (c)(3)

<sup>6</sup> 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>.

<sup>7</sup> *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>.

<sup>8</sup> 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>.