

By: Rodriguez

H.B. No. 88

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the disclosure of certain criminal history records and to the duty of law enforcement agencies regarding records associated with certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.081(d), Government Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person successfully completes the terms of any sentence imposed on conviction, including any period of community supervision, or fulfills the conditions of the person's placement ~~[is placed]~~ on deferred adjudication community supervision, ~~[under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and]~~ satisfies the requirements of Subsection (e), and is not the subject of any pending criminal charge, the person may petition the court that convicted the person or placed the person ~~[defendant]~~ on deferred adjudication for an order of nondisclosure under this subsection. After notice to the state and a hearing on whether the person is entitled to file the petition and 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 giving rise to the conviction or deferred adjudication. A

1 criminal justice agency may disclose criminal history record
2 information that is the subject of the order to an individual or
3 agency described by Section 411.083(b)(1), (2), or (3). A person
4 may petition the court for an order of nondisclosure on payment of a
5 \$28 fee to the clerk of the court. The payment may be made only on
6 or after:

7 (1) if the person was convicted of or placed on
8 deferred adjudication for [~~the discharge and dismissal, if the~~
9 ~~offense for which the person was placed on deferred adjudication~~
10 ~~was~~] a misdemeanor other than a misdemeanor described by
11 Subdivision (2), the date on which:

12 (A) the person successfully completes the terms
13 of the sentence imposed on conviction, including any period of
14 community supervision; or

15 (B) for a person who was placed on deferred
16 adjudication, the proceedings are dismissed and the person is
17 discharged under Section 5(c), Article 42.12, Code of Criminal
18 Procedure;

19 (2) the fifth anniversary of the date described by
20 Subdivision (1) [~~discharge and dismissal~~], if [~~the offense for~~
21 ~~which~~] the person was convicted of or placed on deferred
22 adjudication for [~~was~~] a misdemeanor under Chapter 20, 21, 22, 25,
23 42, or 46, Penal Code; or

24 (3) the 10th anniversary of the date described by
25 Subdivision (1) [~~discharge and dismissal~~], if [~~the offense for~~
26 ~~which~~] the person was convicted of or placed on deferred
27 adjudication for [~~was~~] a felony.

SECTION 2. The heading to Section 552.142, Government Code, is amended to read as follows:

Sec. 552.142. EXCEPTION: [~~RECORDS OF~~] CERTAIN CRIMINAL HISTORY RECORDS [~~DEFERRED ADJUDICATIONS~~].

SECTION 3. The heading to Section 552.1425, Government Code, is amended to read as follows:

Sec. 552.1425. CIVIL PENALTY: [~~RECORDS OF~~] CERTAIN CRIMINAL HISTORY RECORDS [~~DEFERRED ADJUDICATIONS~~].

SECTION 4. The change in law made by this Act to Section 411.081(d), Government Code, applies to criminal history record information related to a person convicted of or placed on deferred adjudication community supervision for an offense regardless of whether the conviction is entered or the person is placed on deferred adjudication before, on, or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2005.