

By: Dutton

H.B. No. 433

Substitute the following for H.B. No. 433:

By: Veasey

C.S.H.B. No. 433

A BILL TO BE ENTITLED

AN ACT

1
2 relating to restrictions on the disclosure of certain criminal
3 history records and to the duty of law enforcement agencies
4 regarding records associated with certain defendants.

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

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

8 (d) Notwithstanding any other provision of this subchapter,
9 if a person is placed on community supervision, including deferred
10 adjudication community supervision, under [~~Section 5.7~~] Article
11 42.12, Code of Criminal Procedure, successfully completes the
12 period of community supervision or [~~subsequently~~] receives a
13 discharge and dismissal under Section 5(c), Article 42.12, as
14 applicable, and satisfies the requirements of Subsection (e), the
15 person may petition the court that placed the defendant on
16 community supervision [~~deferred adjudication~~] for an order of
17 nondisclosure under this subsection. After notice to the state and
18 a hearing on whether the person is entitled to file the petition and
19 issuance of the order is in the best interest of justice, the court
20 shall issue an order prohibiting criminal justice agencies from
21 disclosing to the public criminal history record information
22 related to the offense giving rise to the community supervision
23 [~~deferred adjudication~~]. A criminal justice agency may disclose
24 criminal history record information that is the subject of the

1 order to an individual or agency described by Section
2 411.083(b)(1), (2), or (3). A person may petition the court for an
3 order of nondisclosure on payment of a \$28 fee to the clerk of the
4 court. The payment may be made only on or after:

5 (1) the date on which the period of community
6 supervision expires or, for a person who was placed on deferred
7 adjudication community supervision, the date on which the
8 proceedings are dismissed and the person is discharged under
9 Section 5(c), Article 42.12 [~~the discharge and dismissal~~], if the
10 offense for which the person was placed on community supervision
11 [~~deferred adjudication~~] was a misdemeanor other than a misdemeanor
12 described by Subdivision (2);

13 (2) the fifth anniversary of the date described by
14 Subdivision (1) [~~discharge and dismissal~~], if the offense for which
15 the person was placed on community supervision [~~deferred~~
16 ~~adjudication~~] was a misdemeanor under Chapter 20, 21, 22, 25, 42, or
17 46, Penal Code; or

18 (3) the 10th anniversary of the date described by
19 Subdivision (1) [~~discharge and dismissal~~], if the offense for which
20 the person was placed on community supervision [~~deferred~~
21 ~~adjudication~~] was a felony.

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

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

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

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

3 SECTION 4. The change in law made by this Act to Section
4 411.081(d), Government Code, applies to criminal history record
5 information related to the placement of a person on community
6 supervision regardless of whether the community supervision was
7 ordered before, on, or after the effective date of this Act.

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