

By: Dutton

H.B. No. 697

A BILL TO BE ENTITLED

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AN ACT

relating to a person's eligibility to apply for an order of nondisclosure with respect to certain criminal history records.

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

1 after:

2 (1) the discharge and dismissal, if the offense for
3 which the person was placed on deferred adjudication was a
4 misdemeanor [~~other than a misdemeanor described by Subdivision (2),~~
5 [~~(2) the fifth anniversary of the discharge and~~
6 ~~dismissal, if the offense for which the person was placed on~~
7 ~~deferred adjudication was a misdemeanor under Chapter 20, 21, 22,~~
8 ~~25, 42, or 46, Penal Code]; or~~

9 (2) [~~(3)~~] the fifth [~~10th~~] anniversary of the
10 discharge and dismissal, if the offense for which the person was
11 placed on deferred adjudication was a felony.

12 SECTION 2. The change in law made by this Act applies to
13 criminal history record information related to a person placed on
14 deferred adjudication community supervision for an offense
15 regardless of whether the person is placed on deferred adjudication
16 before, on, or after the effective date of this Act.

17 SECTION 3. This Act takes effect September 1, 2005.