

By: West, Royce

S.B. No. 1071

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a person's eligibility for an order of nondisclosure  
3 with respect to certain criminal history records and to certain law  
4 enforcement duties that result from the issuance of an order.

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

6 SECTION 1. Section 411.081, Government Code, is amended by  
7 amending Subsections (d) and (g) and by adding Subsections (g-1),  
8 (i), and (j) to read as follows:

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

1 the deferred adjudication. A criminal justice agency may disclose  
2 criminal history record information that is the subject of the  
3 order only to other criminal justice agencies, an agency listed in  
4 Subsection (i), or to the person who is the subject of the order [~~an~~  
5 ~~individual or agency described by Section 411.083(b)(1), (2), or~~  
6 ~~(3)~~]. A person may file an ex parte petition with the court that  
7 placed the person on deferred adjudication for an order of  
8 nondisclosure on payment of a \$28 fee to the clerk of the court in  
9 addition to any other fee that generally applies to the filing of a  
10 civil petition. The payment may be made only on or after:

11 (1) the discharge and dismissal, if the offense for  
12 which the person was placed on deferred adjudication was a  
13 misdemeanor other than a misdemeanor described by Subdivision (2);

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

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

21 (g) When an order of nondisclosure is issued under this  
22 subsection, the clerk of the court shall send a copy of the order by  
23 certified mail, return receipt requested, to the Crime Records  
24 Service of the Department of Public Safety. Not later than 10  
25 business days after receipt of the order, the [~~The~~] Department of  
26 Public Safety shall seal any criminal history record information  
27 maintained by the department that is the subject of the order. The

1 department shall also send a copy of the order by mail or electronic  
2 means to all:

3 (1) law enforcement agencies, jails or other detention  
4 facilities, magistrates, courts, prosecuting attorneys,  
5 correctional facilities, central state depositories of criminal  
6 records, and other officials or agencies or other entities of this  
7 state or of any political subdivision of this state;

8 (2) [~~, and to all~~] central federal depositories of  
9 criminal records that there is reason to believe have criminal  
10 history record information that is the subject of the order; and

11 (3) private entities that purchase criminal history  
12 record information from the department.

13 (g-1) Not later than 30 business days after receipt of an  
14 order from the Department of Public Safety under Subsection (g), an  
15 individual or entity described by Subsection (g)(1) shall seal any  
16 criminal history record information maintained by the individual or  
17 entity that is the subject of the order.

18 (i) A criminal justice agency may disclose criminal history  
19 record information that is the subject of an order of nondisclosure  
20 to the following noncriminal justice agencies or entities only:

21 (1) the State Board for Educator Certification;

22 (2) a school district, charter school, private school,  
23 regional education service center, commercial transportation  
24 company, or education shared service arrangement;

25 (3) the Texas State Board of Medical Examiners;

26 (4) the Texas School for the Blind and Visually  
27 Impaired;

- 1           (5) the Board of Law Examiners;  
2           (6) the State Bar of Texas;  
3           (7) the Texas Commission on Alcohol and Drug Abuse;  
4           (8) a district court regarding a petition for name  
5 change under Subchapter B, Chapter 45, Family Code;  
6           (9) the Texas School for the Deaf;  
7           (10) the Texas Department of Family and Protective  
8 Services;  
9           (11) the Texas Youth Commission;  
10          (12) the Department of Assistive and Rehabilitative  
11 Services;  
12          (13) the Department of State Health Services, a local  
13 mental health service, a local mental retardation authority, or a  
14 community center providing services to persons with mental illness  
15 or retardation;  
16          (14) the Texas Private Security Board;  
17          (15) a municipal or volunteer fire department;  
18          (16) the Board of Nurse Examiners;  
19          (17) a safe house providing shelter to children in  
20 harmful situations;  
21          (18) a public or nonprofit hospital or hospital  
22 district; and  
23          (19) the Texas Juvenile Probation Commission.  
24          (j) If the Department of Public Safety receives information  
25 indicating that a private entity that purchases criminal history  
26 record information from the department has been found by a court to  
27 have committed five or more violations of Section 552.1425,

1 Government Code, by compiling or disseminating information with  
2 respect to which an order of nondisclosure has been issued, the  
3 department may not release any criminal history record information  
4 to that entity until the first anniversary of the date of the most  
5 recent violation.

6 SECTION 2. The changes in law made by this Act relating to a  
7 person's eligibility for an order of nondisclosure apply to  
8 criminal history record information related to a deferred  
9 adjudication or similar procedure described by Subsection (f),  
10 Section 411.081, Government Code, regardless of whether the  
11 deferred adjudication or procedure is entered before, on, or after  
12 the effective date of this Act.

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