

By: Dutton

H.B. No. 761

A BILL TO BE ENTITLED

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. Except as provided by Subsection (e), a  
person may petition the court under this subsection regardless of  
whether the person has been previously placed on deferred  
adjudication community supervision for another offense. 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

1 order only to other criminal justice agencies, for criminal justice  
2 or regulatory licensing purposes, an agency or entity listed in  
3 Subsection (i), or the person who is the subject of the order. A  
4 person may petition the court that placed the person on deferred  
5 adjudication for an order of nondisclosure on payment of a \$28 fee  
6 to the clerk of the court in addition to any other fee that  
7 generally applies to the filing of a civil petition. The payment  
8 may be made only on or after:

9 (1) the discharge and dismissal, if the offense for  
10 which the person was placed on deferred adjudication was a  
11 misdemeanor ~~[other than a misdemeanor described by Subdivision (2),~~  
12 ~~[(2) the second anniversary of the discharge and~~  
13 ~~dismissal, if the offense for which the person was placed on~~  
14 ~~deferred adjudication was a misdemeanor under Chapter 20, 21, 22,~~  
15 ~~25, 42, or 46, Penal Code]; or~~

16 (2) (2) ~~[(3)]~~ the fifth anniversary of the discharge and  
17 dismissal, if the offense for which the person was placed on  
18 deferred adjudication was a felony.

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

24 SECTION 3. This Act takes effect September 1, 2007.