

By: Dutton

H.B. No. 765

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; creating an  
5 offense.

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

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

9 (d) Notwithstanding any other provision of this subchapter,  
10 if a person is placed on community supervision, including deferred  
11 adjudication community supervision, under [~~Section 5.7~~] Article  
12 42.12, Code of Criminal Procedure, successfully completes the  
13 period of community supervision or [~~subsequently~~] receives a  
14 discharge and dismissal under Section 5(c), Article 42.12, as  
15 applicable, and satisfies the requirements of Subsection (e), the  
16 person may petition the court that placed the defendant on  
17 community supervision [~~deferred adjudication~~] for an order of  
18 nondisclosure under this subsection. Except as provided by  
19 Subsection (e), a person may petition the court under this  
20 subsection regardless of whether the person has been previously  
21 placed on [~~deferred adjudication~~] community supervision for  
22 another offense. After notice to the state and a hearing on whether  
23 the person is entitled to file the petition and issuance of the  
24 order is in the best interest of justice, the court shall issue an

1 order prohibiting criminal justice agencies from disclosing to the  
2 public criminal history record information related to the offense  
3 giving rise to the community supervision [~~deferred adjudication~~].

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

14 (1) the date on which the period of community  
15 supervision expires or, for a person who was placed on deferred  
16 adjudication community supervision, the date on which the  
17 proceedings are dismissed and the person is discharged under  
18 Section 5(c), Article 42.12 [~~the discharge and dismissal~~], if the  
19 offense for which the person was placed on community supervision  
20 [~~deferred adjudication~~] was a misdemeanor other than a misdemeanor  
21 described by Subdivision (2);

22 (2) the second anniversary of the date described by  
23 Subdivision (1) [~~discharge and dismissal~~], if the offense for which  
24 the person was placed on community supervision [~~deferred~~  
25 ~~adjudication~~] was a misdemeanor under Chapter 20, 21, 22, 25, 42, or  
26 46, Penal Code; or

27 (3) the fifth anniversary of the date described by

1 Subdivision (1) [~~discharge and dismissal~~], if the offense for which  
2 the person was placed on community supervision [~~deferred~~  
3 ~~adjudication~~] was a felony.

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

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

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

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

12 SECTION 4. Chapter 39, Penal Code, is amended by adding  
13 Section 39.07 to read as follows:

14 Sec. 39.07. PROHIBITED COMPILATION OR DISSEMINATION OF  
15 CRIMINAL HISTORY RECORD INFORMATION. (a) A person commits an  
16 offense if, with intent to obtain a benefit or with intent to harm  
17 or defraud another, the person compiles or disseminates criminal  
18 history record information that the person knows is the subject of  
19 an order of nondisclosure issued under Section 411.081, Government  
20 Code.

21 (b) An offense under this section is a Class A misdemeanor.

22 (c) It is a defense to prosecution under this section that  
23 the person compiled or disseminated the information for a purpose  
24 described by Section 411.083(a) or (b)(1), (2), or (3), Government  
25 Code, or another purpose specifically authorized by law.

26 SECTION 5. The change in law made by this Act to Section  
27 411.081(d), Government Code, applies to criminal history record

1 information related to the placement of a person on community  
2 supervision regardless of whether the community supervision was  
3 ordered before, on, or after the effective date of this Act.

4 SECTION 6. This Act takes effect September 1, 2007.