

By: Thompson

H.B. No. 2574

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. Sections 411.081(d) and (e), Government Code,  
7 are amended to read as follows:

8 (d) Notwithstanding any other provision of this subchapter,  
9 if a person successfully completes the terms of any sentence  
10 imposed on conviction, including any period of community  
11 supervision, or fulfills the conditions of the person's placement  
12 ~~[is placed]~~ on deferred adjudication community supervision, ~~[under~~  
13 ~~Section 5, Article 42.12, Code of Criminal Procedure, subsequently~~  
14 ~~receives a discharge and dismissal under Section 5(c), Article~~  
15 ~~42.12, and]~~ satisfies the requirements of Subsection (e), and is  
16 not the subject of any pending criminal charge, the person may  
17 petition the court that convicted the person or placed the person  
18 ~~[defendant]~~ on deferred adjudication for an order of nondisclosure  
19 under this subsection. Except as provided by Subsection (e), a  
20 person may petition the court under this subsection regardless of  
21 whether the person has been previously convicted of or placed on  
22 deferred adjudication community supervision for another offense.  
23 After notice to the state and a hearing on whether the person is  
24 entitled to file the petition and issuance of the order is in the

1 best interest of justice, the court shall issue an order  
2 prohibiting criminal justice agencies from disclosing to the public  
3 criminal history record information related to the offense giving  
4 rise to the conviction or deferred adjudication. A criminal  
5 justice agency may disclose criminal history record information  
6 that is the subject of the order only to other criminal justice  
7 agencies, for criminal justice or regulatory licensing purposes, an  
8 agency or entity listed in Subsection (i), or the person who is the  
9 subject of the order. A person may petition the court that  
10 convicted the person or placed the person on deferred adjudication  
11 for an order of nondisclosure on payment of a \$28 fee to the clerk of  
12 the court in addition to any other fee that generally applies to the  
13 filing of a civil petition. The payment may be made only on or  
14 after:

15 (1) the date of the discharge and dismissal, if the  
16 [~~offense for which the~~] person was placed on deferred adjudication  
17 for [~~was~~] a misdemeanor other than a misdemeanor described by  
18 Subdivision (2);

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

23 (3) the fifth anniversary of:

24 (A) the date the person successfully completes  
25 the terms of the sentence imposed on conviction, including any  
26 period of community supervision, if the person was convicted of a  
27 misdemeanor; or

1                   (B) the date of the discharge and dismissal, if  
2 the [~~offense for which the~~] person was placed on deferred  
3 adjudication for [~~was~~] a felony; or

4                   (4) the 10th anniversary of the date the person  
5 successfully completes the terms of the sentence imposed on  
6 conviction, including any period of community supervision, if the  
7 person was convicted of a felony.

8           (e) A person is entitled to petition the court under  
9 Subsection (d) only if during the applicable period described by  
10 Subsection (d)(1), (2), [~~or~~] (3), or (4), as appropriate, the  
11 person is not convicted of or placed on deferred adjudication  
12 community supervision under Section 5, Article 42.12, Code of  
13 Criminal Procedure, for any offense other than an offense under the  
14 Transportation Code punishable by fine only. A person is not  
15 entitled to petition the court under Subsection (d) if the person  
16 has been previously convicted or placed on deferred adjudication  
17 for:

18                   (1) an offense requiring registration as a sex  
19 offender under Chapter 62, Code of Criminal Procedure;

20                   (2) an offense under Section 20.04, Penal Code,  
21 regardless of whether the offense is a reportable conviction or  
22 adjudication for purposes of Chapter 62, Code of Criminal  
23 Procedure;

24                   (3) an offense under Section 19.02, 19.03, 22.04,  
25 22.041, 25.07, or 42.072, Penal Code, or an offense under Sections  
26 49.04-49.08 of that code; [~~or~~]

27                   (4) an offense for which punishment may be increased

1 under Section 481.134(c), (d), (e), or (f), Health and Safety Code,  
2 if it is shown that the person has been previously convicted of an  
3 offense for which punishment was increased under any one of those  
4 subsections; or

5 (5) any other offense involving family violence, as  
6 defined by Section 71.004, Family Code.

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

9 Sec. 552.142. EXCEPTION: [~~RECORDS OF~~] CERTAIN CRIMINAL  
10 HISTORY RECORDS [~~DEFERRED ADJUDICATIONS~~].

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

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

15 SECTION 4. (a) The change in law made by this Act to  
16 Section 411.081(d), Government Code, applies to criminal history  
17 record information related to a person convicted of or placed on  
18 deferred adjudication community supervision for an offense  
19 regardless of whether the conviction is entered or the person is  
20 placed on deferred adjudication before, on, or after the effective  
21 date of this Act.

22 (b) The change in law made by this Act to Section  
23 411.081(e), Government Code, applies only to a person who files a  
24 petition for an order of nondisclosure on or after the effective  
25 date of this Act. A person who files a petition for an order of  
26 nondisclosure before the effective date of this Act is covered by  
27 the law in effect at the time the petition is filed, and the former

1 law is continued in effect for that purpose.

2 SECTION 5. This Act takes effect September 1, 2007.