

By: Rodriguez

H.B. No. 3628

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the disclosure of certain criminal history records and to the duty of law enforcement agencies regarding records associated with certain defendants.

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

SECTION 1. Section 411.081 (d) and (e), Government Code, are amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person completes ~~[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]~~ community supervision 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]~~

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

(1) the ~~[discharge and dismissal]~~ completion of the community supervision, if the offense for which the person was placed on ~~[deferred adjudication]~~ community supervision was a misdemeanor other than a misdemeanor described by Subdivision (2);

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

(3) the fifth anniversary of the ~~[discharge and dismissal]~~ the completion of the community supervision, if the offense for which the person was placed on ~~[deferred adjudication]~~ community supervision was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on ~~[deferred adjudication]~~ community

1 supervision under [~~Section 57~~] Article 42.12, Code of Criminal  
2 Procedure, for any offense other than an offense under the  
3 Transportation Code punishable by fine only. A person is not  
4 entitled to petition the court under Subsection (d) if the person  
5 has been previously convicted or placed on [~~deferred adjudication~~]  
6 community supervision for:

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

9 (2) an offense under Section 20.04, Penal Code,  
10 regardless of whether the offense is a reportable conviction or  
11 adjudication for purposes of Chapter 62, Code of Criminal  
12 Procedure;

13 (3) an offense under Section 19.02, 19.03, 22.04,  
14 22.041, 25.07, or 42.072, Penal Code; or

15 (4) any other offense involving family violence, as  
16 defined by Section 71.004, Family Code.

17 (f) For purposes of Subsection (d), a person is considered  
18 to have completed [~~been placed on deferred adjudication~~] community  
19 supervision if, regardless of the statutory authorization:

20 (1) the person entered a plea of guilty or nolo  
21 contendere;

22 (2) the judge found the person guilty or deferred  
23 further proceedings without entering an adjudication of guilt, and  
24 placed the person under the supervision of the court or an officer  
25 under the supervision of the court; and

26 (3) if the person is convicted, the person completes  
27 the terms of the community supervision; or if the adjudication of

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1 guilt is deferred, at the end of the period of supervision the judge  
2 dismissed the proceedings and discharged the person.

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