

By: Dutton

H.B. No. 954

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, Code of
15 Criminal Procedure, as applicable, and satisfies the requirements
16 of Subsection (e), the person may petition the court that placed the
17 person [~~defendant~~] on community supervision [~~deferred~~
18 ~~adjudication~~] for an order of nondisclosure under this subsection.
19 Except as provided by Subsection (e), a person may petition the
20 court under this subsection regardless of whether the person has
21 been previously placed on [~~deferred adjudication~~] community
22 supervision for another offense. After notice to the state and a
23 hearing on whether the person is entitled to file the petition and
24 issuance of the order is in the best interest of justice, the court

1 shall issue an order prohibiting criminal justice agencies from
2 disclosing to the public criminal history record information
3 related to the offense giving rise to the community supervision
4 [~~deferred adjudication~~]. A criminal justice agency may disclose
5 criminal history record information that is the subject of the
6 order only to other criminal justice agencies, for criminal justice
7 or regulatory licensing purposes, an agency or entity listed in
8 Subsection (i), or the person who is the subject of the order. A
9 person may petition the court [~~that placed the person on deferred~~
10 ~~adjudication~~] for an order of nondisclosure on payment of a \$28 fee
11 to the clerk of the court in addition to any other fee that
12 generally applies to the filing of a civil petition. The payment
13 may be made only on or 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. Chapter 39, Penal Code, is amended by adding
9 Section 39.07 to read as follows:

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

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

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

22 SECTION 4. The change in law made by this Act to Section
23 411.081(d), Government Code, applies to criminal history record
24 information related to the placement of a person on community
25 supervision regardless of whether the community supervision was
26 ordered before, on, or after the effective date of this Act.

27 SECTION 5. This Act takes effect September 1, 2009.