

By: Farrar

H.B. No. 2213

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the consequences of community supervision and to
3 petitions and procedures for the expunction of criminal records and
4 files and to orders of nondisclosure.

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

6 SECTION 1. This Act may be cited as the Community
7 Supervision and Expunction Reform Act of 2009.

8 SECTION 2. Section 5, Article 42.12, Code of Criminal
9 Procedure, is amended by adding Subsection (c-1) to read as
10 follows:

11 (c-1) Notwithstanding any other provision of law, except
12 Subsections (c)(1)-(3) of this article, an order of deferred
13 adjudication community supervision that has resulted in a discharge
14 and dismissal under Subsection (c):

15 (1) may not be deemed a conviction for any purpose; and
16 (2) may not be considered by an agency, board,
17 commission, entity, institution, or program of this state or of a
18 political subdivision of this state for the purposes of determining
19 whether to issue, suspend, restrict, or revoke a certification,
20 commission, license, or permit.

21 SECTION 3. Section 20, Article 42.12, Code of Criminal
22 Procedure, is amended by adding Subsection (a-1) to read as
23 follows:

24 (a-1) Notwithstanding any other provision of law, except

1 Subsections (a)(1) and (a)(2) of this article, an order of
2 community supervision that has resulted in a discharge and
3 dismissal under Subsection (a):

4 (1) may not be deemed a conviction for any purpose; and

5 (2) may not be considered by an agency, board,
6 commission, entity, institution, or program of this state or of a
7 political subdivision of this state for the purposes of determining
8 whether to issue, suspend, restrict, or revoke a certification,
9 commission, license, or permit.

10 SECTION 4. Article 55.01, Code of Criminal Procedure, is
11 amended by adding Subsections (a-2), (a-3), and (a-4) to read as
12 follows:

13 (a-2) Notwithstanding Subsections (a)(2)(B) and (a-3), an
14 order of community supervision that has resulted in a discharge and
15 dismissal under Section 5 or Section 20, Article 42.12, does not
16 affect the person's entitlement to expunction:

17 (1) on or after the discharge and dismissal, if the
18 offense for which the person was placed on community supervision
19 was a misdemeanor other than a misdemeanor described by Subdivision
20 (2);

21 (2) on or after the second anniversary of the
22 discharge and dismissal, if the offense for which the person was
23 placed on community supervision was a misdemeanor under Chapter 20,
24 21, 22, 25, 42, or 46, Penal Code;

25 (3) on or after the fifth anniversary of the discharge
26 and dismissal, if the offense for which the person was placed on
27 community supervision was a felony other than a felony described by

1 Subdivision (4); or

2 (4) on or after the seventh anniversary of the
3 discharge and dismissal, if the offense for which the person was
4 placed on community supervision was a felony under Section 19.02,
5 19.03, 20.04, 21.11, 22.011, 22.02, 22.021, or 22.04, Penal Code.

6 (a-3) A person is entitled to petition the court under
7 Article 55.02 only if during the applicable period described by
8 Subsection (a-2)(1), (2), (3), or (4), as appropriate, the person
9 is not convicted of or placed on community supervision for any
10 offense other than an offense under the Transportation Code
11 punishable by fine only.

12 (a-4) A person not otherwise entitled to expunction under
13 Subsection (a) is entitled to have all records and files relating to
14 the custodial or non-custodial arrest of the person for the
15 commission of an offense under the Transportation Code punishable
16 by fine only if the person:

17 (1) committed the offense not less than five years
18 before filing a petition for expunction with respect to the
19 offense;

20 (2) has not been convicted of any other offense in the
21 five years preceding the time of filing the petition; and

22 (3) is not subject to pending charges for any other
23 offense at the time of filing the petition.

24 SECTION 5. Section 2(a), Article 55.02, Code of Criminal
25 Procedure, is amended to read as follows:

26 (a) A person who is entitled to expunction of records and
27 files under Article 55.01(a) or (a-4) or a person who is eligible

1 for expunction of records and files under Article 55.01(b) may file
2 an ex parte petition for expunction in a district court for the
3 county in which:

- 4 (1) the petitioner was arrested; or
- 5 (2) the offense was alleged to have occurred.

6 SECTION 6. (a) The following provisions of the Government
7 Code are repealed:

- 8 (1) Section 103.021(37); and
- 9 (2) Sections 411.081(d)-(h).

10 (b) The change in law made by this section does not affect an
11 order of nondisclosure issued before the effective date of this
12 section. An order of nondisclosure continues in effect as if this
13 section had not been enacted, and the former law is continued in
14 effect for that purpose.

15 SECTION 7. Section 552.142(a), Government Code, is amended
16 to read as follows:

17 (a) Information is excepted from the requirements of
18 Section 552.021 if an order of nondisclosure with respect to the
19 information has been issued under Section 411.081(d) as that law
20 existed immediately before September 1, 2009.

21 SECTION 8. Section 552.1425, Government Code, is amended by
22 amending Subsection (2) to read as follows:

23 (2) an order of nondisclosure has been issued under Section
24 411.081(d) as that law existed immediately before September 1,
25 2009.

26 SECTION 9. (a) The following provisions of the Health and
27 Safety Code are repealed:

1 (1) Section 469.001(b); and

2 (2) Section 469.001(c).

3 (b) The change in law made by this section does not affect an
4 order of nondisclosure issued before the effective date of this
5 section. An order of nondisclosure continues in effect as if this
6 section had not been enacted, and the former law is continued in
7 effect for that purpose.

8 SECTION 10. The change in law made by this Act to Article
9 42.12, Code of Criminal Procedure, applies to a discharge and
10 dismissal regardless of whether the discharge and dismissal
11 occurred before, on, or after the effective date of this Act.

12 SECTION 11. The change in law made by this Act to Chapter
13 55, Code of Criminal Procedure, applies to a person seeking
14 expunction of records and files relating to an arrest on or after
15 the effective date of this Act, regardless of whether the arrest
16 occurred before, on, or after the effective date of this Act.

17 SECTION 12. Sections 1-5 of this Act take effect
18 immediately if it receives a vote of two-thirds of all members
19 elected to each house, as provided by Section 39, Article III, Texas
20 Constitution. If this Act does not receive the vote necessary for
21 immediate effect, Sections 1-5 of this Act take effect September 1,
22 2009. All other sections of this Act take effect September 1, 2009.