

## **BILL ANALYSIS**

C.S.H.B. 1106  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many Texans who successfully complete a period of deferred adjudication community supervision believe that the completion results in no conviction and are unaware that their criminal record will reflect the period of deferred adjudication but that, in many cases, they have the right to limit access to this criminal information through an order of nondisclosure. With current technology making it far simpler and less expensive to access criminal records, many individuals with an indication of deferred adjudication on their records experience difficulty in finding employment and housing. These individuals should be able to fully understand the ramifications before accepting deferred adjudication and should be informed of the legal right to seek an order of nondisclosure if available. C.S.H.B. 1106 seeks to ensure that such individuals are informed by requiring a court to provide important information regarding an order of nondisclosure to certain eligible defendants.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1106 amends the Code of Criminal Procedure to require a court, before placing a defendant on deferred adjudication community supervision, to inform the defendant of the defendant's right to petition the court for an order of nondisclosure, unless the defendant is ineligible to pursue that right because of the nature of the offense for which the defendant is placed on deferred adjudication community supervision or because of the defendant's criminal history.

C.S.H.B. 1106 requires a judge who dismisses proceedings against a defendant and discharges the defendant under provisions of law relating to deferred adjudication community supervision to provide the defendant with a copy of the order of dismissal and discharge and, if applicable, inform the defendant of the defendant's eligibility to petition the court for an order of nondisclosure and the earliest date the defendant is eligible to file the petition for the order of nondisclosure.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1106 differs from the original by requiring a court to inform a defendant of the defendant's right to petition the court for an order of nondisclosure before the court places the defendant on deferred adjudication community supervision, whereas the original requires the court to inform the defendant of that right before the court accepts a plea of guilty or a plea of

nolo contendere with regard to the offense for which the defendant is eligible to be placed on deferred adjudication community supervision. The substitute differs from the original by making the requirement for the court to inform the defendant of the right to petition the court for an order of nondisclosure contingent on whether the defendant is ineligible to pursue that right because of the nature of the offense or the defendant's criminal history, whereas the original requires the court to so inform the defendant by including whether the plea will render the defendant ineligible to pursue that right because of substantially the same factors. The substitute differs from the original in reference to the nature of the offense that serves as a basis for that requirement by referring to the nature of the offense for which the defendant is placed on deferred adjudication community supervision, whereas the original references the nature of the offense for which the plea is entered. The substitute omits provisions included in the original requiring a court to substantially comply with the requirement to inform the defendant of the right before accepting a plea of guilty or a plea of nolo contendere and establishing that the failure of the court to comply does not constitute a ground for reversal unless the defendant shows that the defendant was harmed by the failure of the court to provide the information. The substitute differs from the original in nonsubstantive ways.