

By: Jackson

H.B. No. 599

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the release of certain criminal history record  
3 information subject to an order of nondisclosure.

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

5 SECTION 1. Section 411.081, Government Code, is amended by  
6 amending Subsections (d) and (f-1), by reenacting and amending  
7 Subsection (i), as amended by Chapters 183 (H.B. 1830), 780 (S.B.  
8 1056), 816 (S.B. 1599), and 1027 (H.B. 4343), Acts of the 81st  
9 Legislature, Regular Session, 2009, and by adding Subsection (i-1)  
10 to read as follows:

11 (d) Notwithstanding any other provision of this subchapter,  
12 if a person is placed on deferred adjudication community  
13 supervision under Section 5, Article 42.12, Code of Criminal  
14 Procedure, subsequently receives a discharge and dismissal under  
15 Section 5(c), Article 42.12, and satisfies the requirements of  
16 Subsection (e), the person may petition the court that placed the  
17 person [~~defendant~~] on deferred adjudication for an order of  
18 nondisclosure under this subsection. Except as provided by  
19 Subsection (e), a person may petition the court under this  
20 subsection regardless of whether the person has been previously  
21 placed on deferred adjudication community supervision for another  
22 offense. After notice to the state and a hearing on whether the  
23 person is entitled to file the petition and issuance of the order is  
24 in the best interest of justice, the court shall issue an order

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

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

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

24 (3) the fifth anniversary of the discharge and  
25 dismissal, if the offense for which the person was placed on  
26 deferred adjudication was a felony.

27 (f-1) In this subsection, "child" has the meaning assigned

1 by Section 51.02, Family Code. Notwithstanding any other  
2 provision of this subchapter, on conviction of a child for a  
3 misdemeanor offense punishable by fine only that does not  
4 constitute conduct indicating a need for supervision under Section  
5 51.03, Family Code, the convicting court shall immediately issue an  
6 order prohibiting criminal justice agencies from disclosing to the  
7 public criminal history record information related to the  
8 offense. A criminal justice agency may disclose criminal history  
9 record information that is the subject of the order only to other  
10 criminal justice agencies for criminal justice purposes[~~, to an~~  
11 ~~agency or entity listed in Subsection (j),~~] or to the person who is  
12 the subject of the order.

13 (i) Except as provided by Subsection (i-1), a [A] criminal  
14 justice agency may disclose criminal history record information  
15 that is the subject of an order of nondisclosure under Subsection  
16 (d) to the following noncriminal justice agencies or entities only,  
17 and only if the offense for which the person was placed on deferred  
18 adjudication is a felony:

- 19 (1) the State Board for Educator Certification;
- 20 (2) a school district, charter school, private school,  
21 regional education service center, commercial transportation  
22 company, or education shared service arrangement;
- 23 (3) the Texas Medical Board;
- 24 (4) the Texas School for the Blind and Visually  
25 Impaired;
- 26 (5) the Board of Law Examiners;
- 27 (6) the State Bar of Texas;

- 1 (7) a district court regarding a petition for name  
2 change under Subchapter B, Chapter 45, Family Code;
- 3 (8) the Texas School for the Deaf;
- 4 (9) the Department of Family and Protective Services;
- 5 (10) the Texas Youth Commission;
- 6 (11) the Department of Assistive and Rehabilitative  
7 Services;
- 8 (12) the Department of State Health Services, a local  
9 mental health service, a local mental retardation authority, or a  
10 community center providing services to persons with mental illness  
11 or retardation;
- 12 (13) the Texas Private Security Board;
- 13 (14) a municipal or volunteer fire department;
- 14 (15) the Texas Board of Nursing;
- 15 (16) a safe house providing shelter to children in  
16 harmful situations;
- 17 (17) a public or nonprofit hospital or hospital  
18 district;
- 19 (18) the Texas Juvenile Probation Commission;
- 20 (19) the securities commissioner, the banking  
21 commissioner, the savings and mortgage lending commissioner, or the  
22 credit union commissioner;
- 23 (20) the Texas State Board of Public Accountancy;
- 24 (21) the Texas Department of Licensing and Regulation;
- 25 (22) the Health and Human Services Commission;
- 26 (23) the Department of Aging and Disability Services;
- 27 (24) the Texas Education Agency; [~~and~~]

1 (25) the Guardianship Certification Board; ~~and~~

2 (26) a county clerk's office in relation to a  
3 proceeding for the appointment of a guardian under Chapter XIII,  
4 Texas Probate Code;

5 (27) ~~[(25)]~~ the Department of Information Resources  
6 but only regarding an employee, applicant for employment,  
7 contractor, subcontractor, intern, or volunteer who provides  
8 network security services under Chapter 2059 to:

9 (A) the Department of Information Resources; or

10 (B) a contractor or subcontractor of the  
11 Department of Information Resources;

12 (28) ~~[(25)]~~ the Court Reporters Certification Board;

13 and

14 (29) ~~[(25)]~~ the Texas Department of Insurance.

15 (i-1) A criminal justice agency may disclose criminal  
16 history record information that is the subject of an order of  
17 nondisclosure under Subsection (d), regardless of whether the  
18 offense for which the person was placed on deferred adjudication is  
19 a felony or a misdemeanor, to an agency or entity listed in  
20 Subsection (i)(19). A criminal justice agency may disclose  
21 criminal history record information that is the subject of an order  
22 of nondisclosure under Subsection (d) to an agency or entity listed  
23 in Subsection (i)(20) if the offense for which the person was placed  
24 on deferred adjudication is:

25 (1) a felony; or

26 (2) a misdemeanor under Chapter 31, Penal Code, or  
27 under Section 32.21 or 32.45 of that code.

1           SECTION 2. Section 411.081(j), Government Code, is  
2 repealed.

3           SECTION 3. The change in law made by this Act to Section  
4 411.081, Government Code, applies to the disclosure on or after the  
5 effective date of this Act of criminal history record information  
6 that is the subject of an order of nondisclosure, regardless of  
7 whether the order is issued before, on, or after the effective date  
8 of this Act.

9           SECTION 4. To the extent of any conflict, this Act prevails  
10 over another Act of the 82nd Legislature, Regular Session, 2011,  
11 relating to nonsubstantive additions to and corrections in enacted  
12 codes.

13           SECTION 5. This Act takes effect September 1, 2011.