

By: Dutton

H.B. No. 688

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. Sections 411.081(d) and (e), Government Code,
8 are amended 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, Code of Criminal Procedure [~~the~~
19 ~~discharge and dismissal~~], if the offense for which the person was
20 placed on community supervision [~~deferred adjudication~~] was a
21 misdemeanor other than a misdemeanor 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 (e) A person is entitled to petition the court under
5 Subsection (d) only if during the period of the [~~deferred~~
6 ~~adjudication~~] community supervision for which the order of
7 nondisclosure is requested and during the applicable period
8 described by Subsection (d)(1), (2), or (3), as appropriate, the
9 person is not convicted of or placed on [~~deferred adjudication~~]
10 community supervision under [~~Section 57~~] Article 42.12, Code of
11 Criminal Procedure, for any offense other than an offense under the
12 Transportation Code punishable by fine only. A person is not
13 entitled to petition the court under Subsection (d) if the person
14 was placed on the [~~deferred adjudication~~] community supervision for
15 or has been previously convicted of or placed on any other community
16 supervision, including deferred adjudication community
17 supervision, for:

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

20 (2) an offense under Section 20.04, Penal Code,
21 regardless of whether the offense is a reportable conviction or
22 adjudication for purposes of Chapter 62, Code of Criminal
23 Procedure;

24 (3) an offense under Section 19.02, 19.03, 22.04,
25 22.041, 25.07, or 42.072, Penal Code; or

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

1 SECTION 2. The heading to Section 552.142, Government Code,
2 is amended to read as follows:

3 Sec. 552.142. EXCEPTION: [~~RECORDS OF~~] CERTAIN CRIMINAL
4 HISTORY RECORDS [~~DEFERRED ADJUDICATIONS AND CERTAIN MISDEMEANORS~~
5 ~~PUNISHABLE BY FINE ONLY~~].

6 SECTION 3. Chapter 39, Penal Code, is amended by adding
7 Section 39.07 to read as follows:

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

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

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

20 SECTION 4. The change in law made by this Act to Section
21 411.081(d), Government Code, applies to criminal history record
22 information related to the placement of a person on community
23 supervision regardless of whether the community supervision was
24 ordered before, on, or after the effective date of this Act.

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