

By: Johnson

H.B. No. 1106

A BILL TO BE ENTITLED

AN ACT

1
2 relating to providing certain information to criminal defendants
3 before a plea is entered and at the time of the dismissal of certain
4 proceedings against the defendant.

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

6 SECTION 1. Article 26.13, Code of Criminal Procedure, is
7 amended by adding Subsections (j) and (k) to read as follows:

8 (j) Before accepting a plea of guilty or a plea of nolo
9 contendere with reference to an offense for which the defendant is
10 eligible to be placed on deferred adjudication community
11 supervision under Section 5, Article 42.12, the court shall inform
12 the defendant of the defendant's right to petition the court for an
13 order of nondisclosure under Section 411.081, Government Code,
14 including whether the plea will render the defendant ineligible to
15 pursue that right because of:

16 (1) the nature of the offense with reference to which
17 the plea is being entered; or

18 (2) the defendant's criminal history.

19 (k) The court must substantially comply with Subsection
20 (j). The failure of the court to comply with Subsection (j) is not a
21 ground for reversal unless the defendant shows that the defendant
22 was harmed by the failure of the court to provide the information.

23 SECTION 2. Section 5, Article 42.12, Code of Criminal
24 Procedure, is amended by adding Subsection (c-1) to read as

1 follows:

2 (c-1) A judge who dismisses the proceedings against a
3 defendant and discharges the defendant under Subsection (c) shall:

4 (1) provide the defendant with a copy of the order of
5 dismissal and discharge; and

6 (2) if applicable, inform the defendant of the
7 defendant's eligibility to petition the court for an order of
8 nondisclosure under Section 411.081, Government Code, and the
9 earliest date the defendant is eligible to file the petition for the
10 order of nondisclosure.

11 SECTION 3. Articles 26.13(j) and (k), Code of Criminal
12 Procedure, as added by this Act, apply to a plea of guilty or nolo
13 contendere entered on or after the effective date of this Act,
14 regardless of whether the offense with reference to which the plea
15 is entered is committed before, on, or after that date.

16 SECTION 4. Section 5(c-1), Article 42.12, Code of Criminal
17 Procedure, as added by this Act, applies to an order of dismissal
18 and discharge entered on or after the effective date of this Act,
19 regardless of whether the defendant was placed on deferred
20 adjudication community supervision before, on, or after that date.

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