

By: West

S.B. No. 1158

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the disclosure of certain criminal history records and to the duty of law enforcement agencies regarding records associated with certain defendants.

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

SECTION 1. Sections 411.081(d) and (e), Government Code, are amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person is placed on community supervision, including deferred adjudication community supervision, under ~~[Section 5,]~~ Article 42.12, Code of Criminal Procedure, successfully completes the period of community supervision or ~~[subsequently]~~ receives a discharge and dismissal under Section 5(c) or Section 20, Article 42.12, Code of Criminal Procedure, as applicable, and satisfies the requirements of Subsection (e), the person may petition the court that placed the person ~~[defendant]~~ on community supervision ~~[deferred adjudication]~~ for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court under this subsection regardless of whether the person has been previously placed on ~~[deferred adjudication]~~ community supervision for another offense. After notice to the state and a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal

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

13 (1) the discharge and dismissal under Section 5(c),  
 14 Article 42.12, Code of Criminal Procedure, if the ~~[offense for~~  
 15 ~~which the]~~ person was placed on deferred adjudication for ~~[was]~~ a  
 16 misdemeanor other than a misdemeanor described by Subdivision (2);

17 (2) the second anniversary of the discharge and  
 18 dismissal under Section 5(c), Article 42.12, Code of Criminal  
 19 Procedure, if the ~~[offense for which the]~~ person was placed on  
 20 deferred adjudication for ~~[was]~~ a misdemeanor under Chapter 20, 21,  
 21 22, 25, 42, or 46, Penal Code; ~~[or]~~

22 (3) the fifth anniversary of the discharge and  
 23 dismissal under Section 5(c), Article 42.12, Code of Criminal  
 24 Procedure, if the ~~[offense for which the]~~ person was placed on  
 25 deferred adjudication for ~~[was]~~ a felony;

26 (4) the fifth anniversary of the successful completion  
 27 of the period of community supervision or the discharge and

1 dismissal under Section 20, Article 42.12, Code of Criminal  
2 Procedure, if the person was placed on community supervision  
3 following conviction of a misdemeanor; or

4 (5) the 10th anniversary of the successful completion  
5 of the period of community supervision or the discharge and  
6 dismissal under Section 20, Article 42.12, Code of Criminal  
7 Procedure, if the person was placed on community supervision  
8 following conviction of a felony.

9 (e) A person is entitled to petition the court under  
10 Subsection (d) only if during the period of the [~~deferred~~  
11 ~~adjudication~~] community supervision for which the order of  
12 nondisclosure is requested and during the applicable period  
13 described by Subsection (d)(1), (2), [~~or~~] (3), (4), or (5), as  
14 appropriate, the person is not convicted of or placed on [~~deferred~~  
15 ~~adjudication~~] community supervision under [~~Section 5.7~~] Article  
16 42.12, Code of Criminal Procedure, for any offense other than an  
17 offense under the Transportation Code punishable by fine only. A  
18 person is not entitled to petition the court under Subsection (d) if  
19 the person was placed on the [~~deferred adjudication~~] community  
20 supervision for or has been previously convicted of or placed on any  
21 other community supervision, including deferred adjudication  
22 community supervision, for:

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

25 (2) an offense under Section 20.04, Penal Code,  
26 regardless of whether the offense is a reportable conviction or  
27 adjudication for purposes of Chapter 62, Code of Criminal

1 Procedure;

2 (3) an offense under Section 19.02, 19.03, 19.04,  
3 22.04, 22.041, 25.07, 29.03, or 42.072, Penal Code; or

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

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

8 Sec. 552.142. EXCEPTION: [~~RECORDS OF~~] CERTAIN CRIMINAL  
9 HISTORY RECORDS [~~DEFERRED ADJUDICATIONS AND CERTAIN MISDEMEANORS~~  
10 ~~PUNISHABLE BY FINE ONLY~~].

11 SECTION 3. The changes in law made by this Act to Sections  
12 411.081(d) and (e), Government Code, apply to a person who, on or  
13 after the effective date of this Act, petitions the court for an  
14 order of nondisclosure of criminal history record information  
15 related to the placement of the person on community supervision,  
16 regardless of whether the community supervision is ordered before,  
17 on, or after the effective date of this Act.

18 SECTION 4. This Act takes effect September 1, 2011.