

By: West

S.B. No. 977

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the procedure used to petition for an order of
3 nondisclosure of criminal history record information.

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 Subsection (d) and adding Subsection (f-1) to read as
7 follows:

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

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

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

14 (2) the second anniversary of the discharge and
15 dismissal, if the offense for which the person was placed on
16 deferred adjudication was a misdemeanor under Chapter 20, 21, 22,
17 25, 42, or 46, Penal Code; or

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

21 (f-1) A person who petitions the court for an order of
22 nondisclosure under Subsection (d) may file the petition in person,
23 electronically, or by mail. The petition must be accompanied by
24 payment of a \$28 fee to the clerk of the court in addition to any
25 other fee that generally applies to the filing of a civil petition.
26 The Office of Court Administration of the Texas Judicial System
27 shall prescribe a form for the filing of a petition electronically

1 or by mail. The form must provide for the petition to be
2 accompanied by the required fees and any other supporting material
3 determined necessary by the office of court administration,
4 including evidence that the person is entitled to file the
5 petition. The office of court administration shall make available
6 on its Internet website the electronic application and printable
7 application form. Each county or district clerk's office that
8 maintains an Internet website shall include on that website a link
9 to the electronic application and printable application form
10 available on the office of court administration's Internet website.
11 On receipt of a petition under this subsection, the court shall
12 provide notice to the state and an opportunity for a hearing on
13 whether the person is entitled to file the petition and issuance of
14 the order is in the best interest of justice. The court shall hold a
15 hearing before determining whether to issue an order of
16 nondisclosure, except that a hearing is not required if:

17 (1) the state does not request a hearing on the issue
18 before the 45th day after the date on which the state receives
19 notice under this subsection; and

20 (2) the court determines that:

21 (A) the defendant is entitled to file the
22 petition; and

23 (B) the order is in the best interest of justice.

24 SECTION 2. The change in law made by this Act applies to a
25 person who petitions the court for an order of nondisclosure on or
26 after the effective date of this Act, regardless of whether the
27 person is placed on deferred adjudication community supervision

1 before, on, or after that date.

2 SECTION 3. This Act takes effect September 1, 2013.