

1-1 By: West S.B. No. 977
 1-2 (In the Senate - Filed February 28, 2013; March 12, 2013,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 18, 2013, rereferred to Committee on Jurisprudence;
 1-5 April 29, 2013, reported adversely, with favorable Committee
 1-6 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2013,
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12			X	
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 COMMITTEE SUBSTITUTE FOR S.B. No. 977 By: West

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the procedure used to petition for an order of
 1-21 nondisclosure of criminal history record information.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 411.081, Government Code, is amended by
 1-24 amending Subsection (d) and adding Subsection (f-1) to read as
 1-25 follows:

1-26 (d) Notwithstanding any other provision of this subchapter,
 1-27 if a person is placed on deferred adjudication community
 1-28 supervision under Section 5, Article 42.12, Code of Criminal
 1-29 Procedure, subsequently receives a discharge and dismissal under
 1-30 Section 5(c), Article 42.12, and satisfies the requirements of
 1-31 Subsection (e), the person may petition the court that placed the
 1-32 defendant on deferred adjudication for an order of nondisclosure
 1-33 under this subsection. Except as provided by Subsection (e), a
 1-34 person may petition the court for an order of nondisclosure ~~under~~
 1-35 ~~this subsection]~~ regardless of whether the person has been
 1-36 previously placed on deferred adjudication community supervision
 1-37 for another offense. After notice to the state, an opportunity for
 1-38 ~~[and]~~ a hearing, and a determination that [on whether] the person is
 1-39 entitled to file the petition and issuance of the order is in the
 1-40 best interest of justice, the court shall issue an order
 1-41 prohibiting criminal justice agencies from disclosing to the public
 1-42 criminal history record information related to the offense giving
 1-43 rise to the deferred adjudication. A criminal justice agency may
 1-44 disclose criminal history record information that is the subject of
 1-45 the order only to other criminal justice agencies, for criminal
 1-46 justice or regulatory licensing purposes, an agency or entity
 1-47 listed in Subsection (i), or the person who is the subject of the
 1-48 order. A person may petition the court that placed the person on
 1-49 deferred adjudication for an order of nondisclosure ~~[on payment of~~
 1-50 ~~a \$28 fee to the clerk of the court in addition to any other fee that~~
 1-51 ~~generally applies to the filing of a civil petition. The payment~~
 1-52 ~~may be made]~~ only on or after:

1-53 (1) the discharge and dismissal, if the offense for
 1-54 which the person was placed on deferred adjudication was a
 1-55 misdemeanor other than a misdemeanor described by Subdivision (2);

1-56 (2) the second anniversary of the discharge and
 1-57 dismissal, if the offense for which the person was placed on
 1-58 deferred adjudication was a misdemeanor under Chapter 20, 21, 22,
 1-59 25, 42, or 46, Penal Code; or

1-60 (3) the fifth anniversary of the discharge and

2-1 dismissal, if the offense for which the person was placed on
2-2 deferred adjudication was a felony.

2-3 (f-1) A person who petitions the court for an order of
2-4 nondisclosure under Subsection (d) may file the petition in person,
2-5 electronically, or by mail. The petition must be accompanied by
2-6 payment of a \$28 fee to the clerk of the court in addition to any
2-7 other fee that generally applies to the filing of a civil petition.
2-8 The Office of Court Administration of the Texas Judicial System
2-9 shall prescribe a form for the filing of a petition electronically
2-10 or by mail. The form must provide for the petition to be
2-11 accompanied by the required fees and any other supporting material
2-12 determined necessary by the office of court administration,
2-13 including evidence that the person is entitled to file the
2-14 petition. The office of court administration shall make available
2-15 on its Internet website the electronic application and printable
2-16 application form. Each county or district clerk's office that
2-17 maintains an Internet website shall include on that website a link
2-18 to the electronic application and printable application form
2-19 available on the office of court administration's Internet website.
2-20 On receipt of a petition under this subsection, the court shall
2-21 provide notice to the state and an opportunity for a hearing on
2-22 whether the person is entitled to file the petition and issuance of
2-23 the order is in the best interest of justice. The court shall hold a
2-24 hearing before determining whether to issue an order of
2-25 nondisclosure, except that a hearing is not required if:

2-26 (1) the state does not request a hearing on the issue
2-27 before the 45th day after the date on which the state receives
2-28 notice under this subsection; and

2-29 (2) the court determines that:
2-30 (A) the defendant is entitled to file the
2-31 petition; and
2-32 (B) the order is in the best interest of justice.

2-33 SECTION 2. The change in law made by this Act applies to a
2-34 person who petitions the court for an order of nondisclosure on or
2-35 after the effective date of this Act, regardless of whether the
2-36 person is placed on deferred adjudication community supervision
2-37 before, on, or after that date.

2-38 SECTION 3. This Act takes effect September 1, 2013.

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