

By: Miles

H.B. No. 268

A BILL TO BE ENTITLED

AN ACT

relating to the prompt issuance of an order of nondisclosure for certain defendants; authorizing a fee.

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

SECTION 1. Section 411.081, Government Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) A person eligible for an order of nondisclosure on or after the discharge and dismissal under Subsection (d)(1) may petition the court that placed the person on deferred adjudication for an order of nondisclosure to be issued at the time the court discharges the defendant and dismisses the proceedings under Section 5(c), Article 42.12, Code of Criminal Procedure. A person who petitions the court under this subsection is not required to pay the costs generally applicable to filing a civil petition, but is required to pay the \$28 filing fee imposed under Subsection (f-1). A court that receives a petition under this subsection may, at the time of discharge and dismissal, issue an order of nondisclosure in the manner provided by Subsection (d) as if the petition had been filed under that subsection.

SECTION 2. Sections 5(a-1) and (c-1), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a-1) Before placing a defendant on deferred adjudication community supervision under this section, the court shall inform the defendant of the defendant's right to petition the court for an

1 order of nondisclosure under Section 411.081, Government Code,
2 including the right of an eligible defendant to file a petition
3 under Subsection (d-1) of that section, unless the defendant is
4 ineligible to pursue that right because of:

5 (1) the nature of the offense for which the defendant
6 is placed on deferred adjudication community supervision; or

7 (2) the defendant's criminal history.

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

10 (1) provide the defendant with a copy of the order of
11 dismissal and discharge; and

12 (2) if applicable:

13 (A) enter an order of nondisclosure for an
14 eligible defendant who filed a petition with the court under
15 Section 411.081(d-1), Government Code; or

16 (B) [7] inform the defendant of the defendant's
17 eligibility to petition the court for an order of nondisclosure
18 under Section 411.081, Government Code, and the earliest date the
19 defendant is eligible to file the petition [~~for the order of~~
20 nondisclosure].

21 SECTION 3. The change in law made by this Act applies to a
22 discharge and dismissal that occurs on or after the effective date
23 of this Act, regardless of whether the offense for which the
24 defendant was placed on deferred adjudication community
25 supervision occurred before, on, or after the effective date of
26 this Act.

27 SECTION 4. This Act takes effect September 1, 2015.