

SENATE AMENDMENTS

2nd Printing

By: Wu, Thompson of Harris, Moody

H.B. No. 681

A BILL TO BE ENTITLED

AN ACT

relating to restricting access to certain information that relates to a person convicted of or granted a dismissal after deferral of disposition for a fine-only misdemeanor offense.

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

SECTION 1. Chapter 44, Code of Criminal Procedure, is amended by adding Article 44.2812 to read as follows:

Art. 44.2812. CONFIDENTIAL RECORDS RELATED TO FINE-ONLY MISDEMEANOR. (a) Except as provided by Subsection (b) and Article 45.0218(b), following the fifth anniversary of the date of a final conviction of, or of a dismissal after deferral of disposition for, a misdemeanor offense punishable by fine only, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, that are held or stored by or for an appellate court and relate to the person who was convicted of, or who received a dismissal after deferral of disposition for, the offense are confidential and may not be disclosed to the public.

(b) This article does not apply to an opinion issued by an appellate court.

SECTION 2. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0218 to read as follows:

Art. 45.0218. CONFIDENTIAL RECORDS RELATED TO FINE-ONLY MISDEMEANOR. (a) Except as provided by Subsection (b), following

1 the fifth anniversary of the date of a final conviction of, or of a
2 dismissal after deferral of disposition for, a misdemeanor offense
3 punishable by fine only, all records and files and information
4 stored by electronic means or otherwise, from which a record or file
5 could be generated, that are held or stored by or for a municipal or
6 justice court and relate to the person who was convicted of, or who
7 received a dismissal after deferral of disposition for, the offense
8 are confidential and may not be disclosed to the public.

9 (b) Information subject to Subsection (a) may be open to
10 inspection only by:

11 (1) judges or court staff;

12 (2) a criminal justice agency for a criminal justice
13 purpose, as those terms are defined by Section 411.082, Government
14 Code;

15 (3) the Department of Public Safety;

16 (4) the attorney representing the state;

17 (5) the defendant or the defendant's counsel; or

18 (6) if the offense is a traffic offense, an insurance
19 company or surety company authorized to write motor vehicle
20 liability insurance in this state.

21 SECTION 3. The change in law made by this Act applies to the
22 disclosure of information on or after the effective date of this Act
23 regardless of whether the offense that is the subject of the
24 information was committed before, on, or after the effective date
25 of this Act.

26 SECTION 4. This Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

Henry Spaw
Secretary of the Senate

BY:

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FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 681 (senate committee report, page 1, line
2 51 through page 2, line 1) by striking added Subsection (b) and
3 substituting the following:

4 (b) Information subject to Subsection (a) may be open to
5 inspection only:

6 (1) by judges or court staff;

7 (2) by a criminal justice agency for a criminal
8 justice purpose, as those terms are defined by Section 411.082,
9 Government Code;

10 (3) by the Department of Public Safety;

11 (4) by the attorney representing the state;

12 (5) by the defendant or the defendant's counsel;

13 (6) if the offense is a traffic offense, an insurance
14 company or surety company authorized to write motor vehicle
15 liability insurance in this state; or

16 (7) for the purpose of complying with a requirement
17 under federal law or if federal law requires the disclosure as a
18 condition of receiving federal highway funds.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 2

Letai Saw BY: *Charles Perry*
Secretary of the Senate

1 Amend H.B. No. 681 (senate committee printing) as follows:

2 (1) In SECTION 1 of the bill, strike added Article
3 44.2812(b), Code of Criminal Procedure (page 1, lines 37 and
4 38), and substitute the following:

5 (b) This article does not apply to:

6 (1) an opinion issued by an appellate court; or

7 (2) records, files, and information described by
8 Subsection (a) that relate to an offense that is sexual in
9 nature, as determined by the holder of the records, files, or
10 information.

11 (2) In SECTION 2 of the bill, in added Article 45.0218(a),
12 Code of Criminal Procedure (page 1, line 42), strike "Subsection
13 (b)" and substitute "Subsections (b) and (c)".

14 (3) In SECTION 2 of the bill, in added Article 45.0218(b),
15 Code of Criminal Procedure (page 1, line 51), strike
16 "Information" and substitute "Records, files, and information".

17 (4) In SECTION 2 of the bill, immediately following added
18 Article 45.0218(b), Code of Criminal Procedure (page 2, between
19 lines 1 and 2), insert the following:

20 (c) This article does not apply to records, files, and
21 information described by Subsection (a) that relate to an
22 offense that is sexual in nature, as determined by the holder of
23 the records, files, or information.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB681 by Wu (Relating to restricting access to certain information that relates to a person convicted of or granted a dismissal after deferral of disposition for a fine-only misdemeanor offense.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>

The bill would amend the Code of Criminal Procedure to restrict public access to information, records, and files relating to certain misdemeanors punishable by fine only. Information would become restricted five years after a final disposition. The Office of Court Administration has indicated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: UP, KJo, ZB, MW, PBO, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 8, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB681 by Wu (Relating to restricting access to certain information that relates to a person convicted of or granted a dismissal after deferral of disposition for a fine-only misdemeanor offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to restrict public access to information relating to certain misdemeanors punishable by fine only. Information would become restricted five years after a final disposition. The Office of Court Administration has indicated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: UP, KJo, ZB, MW, PBO, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 18, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB681 by Wu (Relating to restricting access to certain information that relates to a person convicted of or granted a dismissal after deferral of disposition for a fine-only misdemeanor offense.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to restrict public access to information relating to certain misdemeanors punishable by fine only. Information would become restricted five years after a final disposition. The Office of Court Administration has indicated that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: UP, KJo, MW, PBO, JGA