

CHAPTER 1146

S.B. No. 107

AN ACT

relating to the disclosure by a court of criminal history record information that is the subject of an order of nondisclosure.

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

SECTION 1. Section 411.081, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (f-1) and (g-3) to read as follows:

(a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings, except as provided by Subsection (g-3);

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal

S.B. No. 107

1 Procedure, subsequently receives a discharge and dismissal under
2 Section 5(c), Article 42.12, and satisfies the requirements of
3 Subsection (e), the person may petition the court that placed the
4 defendant on deferred adjudication for an order of nondisclosure
5 under this subsection. Except as provided by Subsection (e), a
6 person may petition the court for an order of nondisclosure [~~under~~
7 ~~this subsection~~] regardless of whether the person has been
8 previously placed on deferred adjudication community supervision
9 for another offense. After notice to the state, an opportunity for
10 ~~and~~ a hearing, and a determination that [~~on whether~~] the person is
11 entitled to file the petition and issuance of the order is in the
12 best interest of justice, the court shall issue an order
13 prohibiting criminal justice agencies from disclosing to the public
14 criminal history record information related to the offense giving
15 rise to the deferred adjudication. A criminal justice agency may
16 disclose criminal history record information that is the subject of
17 the order only to other criminal justice agencies, for criminal
18 justice or regulatory licensing purposes, an agency or entity
19 listed in Subsection (i), or the person who is the subject of the
20 order. A person may petition the court that placed the person on
21 deferred adjudication for an order of nondisclosure [~~on payment of~~
22 ~~a \$28 fee to the clerk of the court in addition to any other fee that~~
23 ~~generally applies to the filing of a civil petition. The payment~~
24 ~~may be made~~] only on or after:

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

S.B. No. 107

1 (2) the second anniversary of the discharge and
2 dismissal, if the offense for which the person was placed on
3 deferred adjudication was a misdemeanor under Chapter 20, 21, 22,
4 25, 42, or 46, Penal Code; or

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

8 (f-1) A person who petitions the court for an order of
9 nondisclosure under Subsection (d) may file the petition in person,
10 electronically, or by mail. The petition must be accompanied by
11 payment of a \$28 fee to the clerk of the court in addition to any
12 other fee that generally applies to the filing of a civil petition.
13 The Office of Court Administration of the Texas Judicial System
14 shall prescribe a form for the filing of a petition electronically
15 or by mail. The form must provide for the petition to be
16 accompanied by the required fees and any other supporting material
17 determined necessary by the office of court administration,
18 including evidence that the person is entitled to file the
19 petition. The office of court administration shall make available
20 on its Internet website the electronic application and printable
21 application form. Each county or district clerk's office that
22 maintains an Internet website shall include on that website a link
23 to the electronic application and printable application form
24 available on the office of court administration's Internet website.
25 On receipt of a petition under this subsection, the court shall
26 provide notice to the state and an opportunity for a hearing on
27 whether the person is entitled to file the petition and issuance of

1 the order is in the best interest of justice. The court shall hold a
2 hearing before determining whether to issue an order of
3 nondisclosure, except that a hearing is not required if:

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

7 (2) the court determines that:

8 (A) the defendant is entitled to file the
9 petition; and

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

11 (g-3) A court may not disclose to the public any information
12 contained in the court records that is the subject of an order of
13 nondisclosure issued under this section. The court may disclose
14 information contained in the court records that is the subject of an
15 order of nondisclosure only to criminal justice agencies for
16 criminal justice or regulatory licensing purposes, to an agency or
17 entity listed in Subsection (i), or to the person who is the subject
18 of the order. The clerk of the court issuing an order of
19 nondisclosure under this section shall seal any court records
20 containing information that is the subject of the order as soon as
21 practicable after the date the clerk of the court sends all relevant
22 criminal history record information contained in the order or a
23 copy of the order to the Department of Public Safety under
24 Subsection (g).

25 SECTION 2. (a) Subsection (a), Section 411.081,
26 Government Code, as amended by this Act, and Subsection (g-3),
27 Section 411.081, Government Code, as added by this Act, apply to the

S.B. No. 107

1 disclosure on or after the effective date of this Act of information
2 that is the subject of an order of nondisclosure issued under
3 Section 411.081, Government Code, regardless of whether the order
4 is issued before, on, or after the effective date of this Act.

5 (b) Subsection (d), Section 411.081, Government Code, as
6 amended by this Act, and Subsection (f-1), Section 411.081,
7 Government Code, as added by this Act, apply to a person who
8 petitions the court for an order of nondisclosure on or after the
9 effective date of this Act, regardless of whether the person is
10 placed on deferred adjudication community supervision before, on,
11 or after that date.

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

S.B. No. 107

David Keuchner
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 107 passed the Senate on March 27, 2013, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 25, 2013, by the following vote: Yeas 30, Nays 0.

Ratsy Gaw
Secretary of the Senate

I hereby certify that S.B. No. 107 passed the House, with amendment, on May 22, 2013, by the following vote: Yeas 145, Nays 1, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

14 JUNE '13
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10 pm O'CLOCK
JUN 14 2013

[Signature]
Secretary of State