

SUBJECT: Providing that persons who have received deferred adjudication can vote

COMMITTEE: Elections — favorable, without amendment

VOTE: 6 ayes — L. Taylor, Hernandez Luna, Branch, Burkett, Farias, Veasey
2 nays — Berman, P. King
1 absent — Isaac

WITNESSES: For — (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Luis Figueroa, Mexican American Legal Defense and Educational Fund (MALDEF); James Guthrie, Republican Party; Rene Lara, Texas AFL-CIO; Sonia Santana, ACLU of Texas)

Against — (*Registered, but did not testify*: Melinda Kinley; Colleen Vera; B.R. Skipper Wallace, Texas Republican County Chairman’s Association)

On — Ed Johnson, Harris County Clerks Office; (*Registered, but did not testify*: Elizabeth Hanshaw Winn, Secretary of State)

BACKGROUND: When a person is granted deferred adjudication for a criminal offense, a judge may, after receiving a plea of guilty or no contest, defer further proceedings without entering a judgment of guilt and place the defendant on community supervision (probation). If the defendant successfully completes probation, the judge must dismiss the charges and discharge the defendant.

In Texas, a person is eligible to vote who has not been finally convicted of a felony, or, if convicted, has fully discharged the sentence, including any term of incarceration, parole, supervision, or court-ordered probation, or has been pardoned or otherwise released from the disability to vote.

DIGEST: HB 1226 would provide that for the purposes of being eligible to vote, a person is not considered to have been finally convicted of an offense for which the criminal proceedings were deferred without an adjudication of guilt.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 1226 is necessary to clarify and reaffirm the right to vote for people during their deferred adjudication probationary period. It would eliminate confusion in current law, which does not spell out deferred adjudication. The voter registration application can be confusing because deferred adjudication is not listed on the “qualifications” section of the application, so a potential applicant who has received deferred adjudication may be uncertain about his or her eligibility to register to vote.

Deferred adjudication is not a conviction of guilt. Using discretion, a judge will deem deferred adjudication appropriate for a person for a variety of reasons, including that it might be the person’s first offense or the nature of the crime was not violent or serious.

People who have received deferred adjudication already are allowed to vote under current law. The bill would not change that. But there is some confusion, mostly on the part of voters, who are not sure whether or not they are eligible to vote because they have received deferred adjudication. This issue generates many phone calls to elections officials and requires much explanation.

**OPPONENTS
SAY:**

People on deferred adjudication should not be allowed to vote. Deferred adjudication implies a kind of legal limbo, but the process should be completed and discharged before a person is allowed to vote.