

- SUBJECT:** Restricting disclosure of information subject to an order of nondisclosure
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody, Schaefer, Toth
0 nays
- SENATE VOTE:** On final passage, March 27 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Jorge Renaud, Texas Criminal Justice Coalition; (*Registered, but did not testify:* Kay Forth, American Civil Liberties Union of Texas)

Against — (*Registered, but did not testify:* Michael Schneider, Texas Association of Broadcasters; Kelley Shannon, Freedom of Information Foundation of Texas)
- BACKGROUND:** Government Code, sec. 411.081 governs orders of nondisclosure. Under this section, if a person placed on deferred adjudication receives a discharge and fulfills certain requirements, the person may petition the court for an order of nondisclosure of their criminal history record information.

Sec. 411.081(i) lists certain agencies and entities to which information that is subject to an order of nondisclosure can be disclosed. The list comprises 30 entries including, among others, state agencies, occupational boards, and financial entities.
- DIGEST:** SB 107 would amend Government Code, sec. 411.081 to specify that court records of public judicial proceedings that were the subject of an order of nondisclosure could not be disclosed to the public by a court. This information could be disclosed only to:
- criminal justice agencies, for criminal justice or regulatory licensing purposes;
 - an agency or entity with statutory access under sec. 411.081(i) to

- information that is the subject of an order of nondisclosure; or
- the person who was the subject of the order.

The clerk of the court issuing an order of nondisclosure would be required to seal any court records containing information that was the subject of the order as soon as practicable after sending a copy of the order to the Texas Department of Public Safety.

The bill would take effect September 1, 2013 and would apply to disclosure of information on or after that date, regardless of when the order of non-disclosure was issued.

**SUPPORTERS
SAY:**

SB 107 would close a loophole in the law governing orders of non-disclosure of criminal records. These orders were created to provide access to certain criminal records by courts while restricting access to those records by the public in certain cases. The current law can be interpreted as not applying to court clerks. This creates a conflict under which records that should be confidential could be shared by a court clerk in spite of an order of non-disclosure. This bill simply would close that loophole and ensure that the law governing orders of non-disclosure functioned properly. The bill would not prohibit access by the public to any records to which they should have had access; it only would clarify the application of the existing non-disclosure law.

**OPPONENTS
SAY:**

SB 107 would restrict public access to criminal court documents. The public has a right to access certain government documents, including documents relating to a person's criminal history record. Availability of these records is important for transparency and for the safety of the public. This bill would restrict the availability of some documents that should be available to the public.