

BILL ANALYSIS

Senate Research Center
8228281 JSC-D

H.B. 1106
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Although deferred adjudication has been an option available to the courts under Texas law for more than 30 years, many circumstances surrounding it have changed. Attorneys for years have advised their clients that if they accepted and successfully completed a sentence for which they received deferred adjudication, they would not have a criminal record.

That is no longer true. Over the last decade and with the growing prevalence of companies that specialize in selling criminal history records (background checks), the records of even a case where the charges have been officially dismissed by the courts, as with a completed deferred adjudication, are subject and available to public disclosure.

Many employers routinely run criminal background checks on job applicants and even on current employees. An applicant who responds that he or she has never been convicted of a crime—although true—is likely to be considered to have falsified on a job application upon the appearance of the record of a criminal offense when a background check is run.

H.B. 1106 requires the courts to inform a defendant who is being placed on deferred adjudication of their eligibility regarding an order of nondisclosure. The bill also requires the courts to provide a defendant who has had charges dismissed through deferred adjudication with a copy of the order of dismissal and discharge.

The courts must also inform a person eligible for an order of nondisclosure of the earliest date of that eligibility.

H.B. 1106 amends current law relating to providing certain information to a criminal defendant at the time the defendant is placed on deferred adjudication community supervision and at the time of the dismissal of certain proceedings against the defendant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5, Article 42.12, Code of Criminal Procedure, by adding Subsections (a-1) and (c-1), as follows:

(a-1) Requires the court, before placing a defendant on deferred adjudication community supervision under this section, to inform the defendant of the defendant's right to petition the court for an order of nondisclosure under Section 411.081 (Application of Subchapter), Government Code, unless the defendant is ineligible to pursue that right because of:

- (1) the nature of the offense for which the defendant is placed on deferred adjudication community supervision; or
- (2) the defendant's criminal history.

(c-1) Requires a judge who dismisses the proceedings against a defendant and discharges the defendant under Subsection (c) to:

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

(2) if applicable, inform the defendant of the defendant's eligibility to petition the court for an order of nondisclosure under Section 411.081, Government Code, and the earliest date the defendant is eligible to file the petition for the order of nondisclosure.

SECTION 2. Makes application of Section 5(a-1), Article 42.12, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 3. Makes application of Section 5(c-1), Article 42.12, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.