

Streamlining Court Processes in Texas

Bill Analysis: House Bill 2855

by Jeanette Moll

Under current law, a defendant placed on deferred adjudication in Texas may petition the court for an order of nondisclosure after the deferred adjudication has been discharged and dismissed. For certain misdemeanors, the defendant may petition the court for an order of nondisclosure at any time after discharge and dismissal. In other words, for certain low-level misdemeanors, there is no waiting period to obtain the order of nondisclosure.

In practice, this means that after obtaining discharge and dismissal, a person must subsequently petition the court in a civil action for the order of nondisclosure, requiring a separate court date, any fees associated with a civil petition, and in most instances the hiring of counsel.

House Bill 2855 seeks to undo this redundant sequential order of court hearings by creating an option that consolidates the discharge and dismissal of the deferred adjudication and the petition for the order of nondisclosure only in those cases which do not require the defendant to undergo a waiting period to obtain the order of nondisclosure.

This proposal would save defendants hundreds of dollars in the filing fees for civil petitions and legal fees that many cannot afford, and also conserve court resources by combining the two statutorily required hearings into one.

Specifically, House Bill 2855 would permit any person charged with misdemeanor offenses other than those misdemeanors under Chapter 20, 21, 22, 25, 42, or 46 of the Penal Code, who are currently eligible for an order of nondisclosure immediately after discharge and dismissal of their deferred adjudication, to instead petition for the discharge and dismissal to occur at the same time as the issuance of the order of nondisclosure.

The petition must be filed with the \$28 filing fee imposed by the Government Code for all orders of nondisclosure, but not with the costs generally applicable to filing civil petitions, as the order of nondisclosure is not entered under a separate civil action under this legislation.

House Bill 2855 also allows for instances when a judge finds that an order of nondisclosure would not serve the interest of public safety by making clear that a court may, but not must, issue the order of nondisclosure at the time of discharge and dismissal of the deferred adjudication. ★