

By: Allen

H.B. No. 1426

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a certificate of relief from collateral consequences to persons convicted of or placed on deferred adjudication community supervision for certain offenses.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. CERTIFICATE OF RELIEF FROM COLLATERAL CONSEQUENCES

Art. 68.001. DEFINITIONS. In this chapter:

(1) "Certificate" means a certificate of relief from collateral consequences issued under this chapter.

(2) "Criminal history record information" has the meaning assigned by Section 411.082, Government Code.

Art. 68.002. ELIGIBILITY. (a) Except as otherwise provided by this article, a person who was convicted of or placed on deferred adjudication community supervision for an offense is eligible to petition for a certificate:

(1) immediately after a discharge and dismissal, if the person is placed on deferred adjudication community supervision for a misdemeanor offense;

(2) on or after the second anniversary of the date the person discharged the person's sentence, if the person is convicted of a misdemeanor offense;

(3) on or after the third anniversary of the date of

1 the discharge and dismissal, if the person is placed on deferred  
2 adjudication community supervision for a felony offense; and

3 (4) on or after the fifth anniversary of the date the  
4 person discharged the person's sentence, if the person is convicted  
5 of a felony offense.

6 (b) A person convicted of or placed on deferred adjudication  
7 community supervision for an offense listed under Article  
8 42A.054(a) or described by Article 42A.054(b) is not eligible to  
9 petition for a certificate.

10 (c) A person is not eligible to petition for a certificate  
11 if, after being convicted of or placed on deferred adjudication  
12 community supervision for an offense, the person committed a  
13 separate offense of which the person was convicted or for which the  
14 person was placed on deferred adjudication community supervision.

15 Art. 68.003. PETITION. (a) A person who is eligible to  
16 petition for a certificate must submit the petition to the court  
17 that convicted the person or placed the person on deferred  
18 adjudication community supervision.

19 (b) The petition must provide evidence that the person has  
20 been rehabilitated, which may include:

21 (1) letters of recommendation from persons who can  
22 credibly speak from personal experience regarding the moral  
23 character of the person;

24 (2) written confirmation that the person has been  
25 rehabilitated, including statements from a court, supervision  
26 officer, parole officer, counselor, psychologist, therapist, or  
27 instructor;

1           (3) letters from community organizations, including a  
2 faith-based organization, attesting to positive community  
3 involvement and volunteerism;

4           (4) proof of completion of rehabilitative courses or  
5 programs, including substance abuse programs and anger management  
6 classes;

7           (5) proof that the person is obtaining an education or  
8 is employed, is diligently attempting to obtain an education or  
9 seek employment, or is unable to obtain an education or seek  
10 employment or hold an employment position; and

11           (6) any recommendations from the Board of Pardons and  
12 Paroles.

13           Art. 68.004. ISSUANCE OF CERTIFICATE OR DENIAL OF PETITION.

14           (a) The court shall investigate each person who petitions under  
15 this chapter.

16           (b) The court may issue a certificate to an eligible person  
17 if the court determines that:

18           (1) the person demonstrated that the person has been  
19 rehabilitated; and

20           (2) the issuance of the certificate is in the best  
21 interest of justice and consistent with the public interest.

22           (c) The court shall issue the certificate or deny the  
23 petition within a reasonable amount of time after the petition is  
24 filed.

25           Art. 68.005. EFFECT OF CERTIFICATE. (a) If a person holds  
26 a certificate, the person's criminal history record information for  
27 the offense that is the subject of the certificate may not be used

1 as grounds for denying a professional license to the person,  
2 provided that the person is otherwise qualified for the license.

3 (b) Subsection (a) does not apply if federal law prohibits  
4 the person from obtaining the license.

5 Art. 68.006. ELIGIBILITY FOR ORDER OF NONDISCLOSURE.

6 Regardless of whether the person meets the eligibility criteria  
7 under Subchapter E-1, Chapter 411, Government Code, a person who is  
8 granted a certificate may immediately petition the granting court  
9 for an order of nondisclosure of criminal history record  
10 information with respect to the offense that is the subject of the  
11 certificate in the manner provided under Section 411.0745,  
12 Government Code.

13 SECTION 2. (a) A petition may be filed under Chapter 68,  
14 Code of Criminal Procedure, as added by this Act, relating to any  
15 offense committed before, on, or after the effective date of this  
16 Act.

17 (b) A court is not required to accept a petition filed under  
18 Chapter 68, Code of Criminal Procedure, as added by this Act, before  
19 January 1, 2018.

20 SECTION 3. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2017.