

By: Leach, Collier, Cook

H.B. No. 3601

A BILL TO BE ENTITLED

AN ACT

1
2 relating to automatic orders of nondisclosure of criminal history
3 record information for certain misdemeanor defendants following
4 successful completion of a period of deferred adjudication
5 community supervision.

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

7 SECTION 1. Section 411.0716, Government Code, is amended to
8 read as follows:

9 Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. [~~(a)~~] Except
10 as provided by Section 411.072 [~~Subsection (b)~~], this subchapter
11 applies to the issuance of an order of nondisclosure of criminal
12 history record information for an offense committed before, on, or
13 after September 1, 2017.

14 [~~(b) Section 411.072 applies only to a person described by~~
15 ~~Subsection (a) of that section who receives a discharge and~~
16 ~~dismissal under Article 42A.111, Code of Criminal Procedure, on or~~
17 ~~after September 1, 2017.~~]

18 SECTION 2. Section 411.072, Government Code, is amended to
19 read as follows:

20 Sec. 411.072. AUTOMATIC ORDER OF NONDISCLOSURE FOLLOWING
21 COMPLETION OF [~~PROCEDURE FOR~~] DEFERRED ADJUDICATION COMMUNITY
22 SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS. (a) A person is
23 entitled to an order of nondisclosure of criminal history record
24 information under this [~~This~~] section if [~~applies only to a person~~

1 ~~who~~]:

2 (1) the person was placed on deferred adjudication
3 community supervision under Subchapter C, Chapter 42A, Code of
4 Criminal Procedure, for a misdemeanor other than a misdemeanor:

5 (A) under:

6 (i) Section 49.04 or 49.06, Penal Code; or

7 (ii) Chapter 20, 21, 22, 25, 42, 43, 46, or
8 71, Penal Code; or

9 (B) with respect to which an affirmative finding
10 under Article 42A.105(f), Code of Criminal Procedure, or former
11 Section 5(k), Article 42.12, Code of Criminal Procedure, was filed
12 in the papers of the case; ~~and~~

13 (2) the person received a discharge and dismissal
14 under Article 42A.111, Code of Criminal Procedure, on or after
15 September 1, 2017, for the offense described by Subdivision (1);

16 (3) at least 180 days have elapsed from the date the
17 person was placed on deferred adjudication community supervision
18 for the offense described by Subdivision (1);

19 (4) the person satisfies the requirements of Section
20 411.074; and

21 (5) the person has never been previously convicted of
22 or placed on deferred adjudication community supervision for
23 another offense other than a traffic offense that is punishable by
24 fine only.

25 (b) Not later than the 15th day of each month, the
26 department shall:

27 (1) review the records in the department's

1 computerized criminal history system and, based on the relevant
2 information present in the system, identify and compile a list of
3 each person who:

4 (A) meets the criteria provided by Subsection
5 (a); and

6 (B) has not received an order of nondisclosure of
7 criminal history information under this section; and

8 (2) for each person identified on the list described
9 by Subdivision (1), provide to the applicable court that placed the
10 person on deferred adjudication community supervision:

11 (A) notice of the person's entitlement to an
12 order of nondisclosure of criminal history record information under
13 this section; and

14 (B) a copy of the list described by Subdivision
15 (1).

16 (c) Notwithstanding any other provision of this subchapter
17 or Subchapter F, if a [person described by Subsection (a) receives a
18 discharge and dismissal under Article 42A.111, Code of Criminal
19 Procedure, and satisfies the requirements of Section 411.074, the]
20 court that placed a [the] person on deferred adjudication community
21 supervision receives notice from the department under Subsection
22 (b) that the person is entitled to an order of nondisclosure of
23 criminal history record information under this section, the court
24 shall, as soon as practicable after the receipt of the notice, issue
25 an order of nondisclosure of criminal history record information
26 under this subchapter prohibiting criminal justice agencies from
27 disclosing to the public criminal history record information

1 related to the offense giving rise to the deferred adjudication
2 community supervision. ~~[The court shall determine whether the~~
3 ~~person satisfies the requirements of Section 411.074, and if the~~
4 ~~court makes a finding that the requirements of that section are~~
5 ~~satisfied, the court shall issue the order of nondisclosure of~~
6 ~~criminal history record information.~~

7 ~~[(1) at the time the court discharges and dismisses~~
8 ~~the proceedings against the person, if the discharge and dismissal~~
9 ~~occurs on or after the 180th day after the date the court placed the~~
10 ~~person on deferred adjudication community supervision; or~~

11 ~~[(2) as soon as practicable on or after the 180th day~~
12 ~~after the date the court placed the person on deferred adjudication~~
13 ~~community supervision, if the discharge and dismissal occurred~~
14 ~~before that date.]~~

15 (d) A [(c) The] person who is entitled to an order of
16 nondisclosure of criminal history record information under this
17 section but who is not identified by the department under
18 Subsection (b) as being entitled to the order may [shall] present to
19 the court that placed the person on deferred adjudication community
20 supervision any evidence necessary to establish that the person is
21 entitled [eligible] to receive an order of nondisclosure of
22 criminal history record information under this section. The court
23 shall prescribe the manner in which the person may present the
24 evidence to the court under this subsection. The court shall
25 determine whether the person satisfies the requirements of this
26 section, and if the court makes a finding that the requirements of
27 this section are satisfied, the court shall issue an order of

1 nondisclosure of criminal history record information under
2 Subsection (c) as soon as practicable after making the finding.

3 (e) Notwithstanding any other law, a [The] person who is
4 entitled to an order of nondisclosure of criminal history record
5 information under this section may not be required to [must] pay any
6 [a \$28] fee relating to the issuance of [to the clerk of the court
7 before the court issues] the order.

8 (f) [(d)] A person who is not entitled [eligible] to receive
9 an order of nondisclosure of criminal history record information
10 under this section solely because an affirmative finding under
11 Article 42A.105(f), Code of Criminal Procedure, or former Section
12 5(k), Article 42.12, Code of Criminal Procedure, was filed in the
13 papers of the case may file a petition for an order of nondisclosure
14 of criminal history record information under Section 411.0725 if
15 the person otherwise satisfies the requirements of that section.

16 SECTION 3. Section 411.0725(a), Government Code, is amended
17 to read as follows:

18 (a) This section applies only to a person placed on deferred
19 adjudication community supervision under Subchapter C, Chapter
20 42A, Code of Criminal Procedure, who:

21 (1) is not entitled [eligible] to receive an order of
22 nondisclosure of criminal history record information under Section
23 411.072; and

24 (2) was placed on deferred adjudication community
25 supervision for an offense other than an offense under Section
26 49.04 or 49.06, Penal Code.

27 SECTION 4. This Act takes effect January 1, 2022.