

By: Leach

H.B. No. 1737

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. This [~~(a)~~
10 ~~Except as provided by Subsection (b), this]~~ subchapter applies to
11 the issuance of an order of nondisclosure of criminal history
12 record information for an offense committed before, on, or after
13 January [~~September~~] 1, 2024 [~~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 dismissal and discharge
14 under Article 42A.111, Code of Criminal Procedure, for the offense
15 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;

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; and

25 (6) the person has not received an order of
26 nondisclosure of criminal history record information under this
27 section.

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

3 (1) review the records in the department's
4 computerized criminal history system and, based on the relevant
5 information present in the system, identify each person who meets
6 the criteria provided by Subsection (a); and

7 (2) provide notice and a list to the clerk of the
8 applicable court that placed each person identified under
9 Subdivision (1) on deferred adjudication community supervision
10 indicating that each person may be entitled to an order of
11 nondisclosure of criminal history record information under this
12 section.

13 (c) For purposes of identifying persons under Subsection
14 (b)(1), if the computerized criminal history system or applicable
15 court records do not indicate whether a person received a dismissal
16 and discharge, the person is considered to satisfy the requirements
17 of Subsection (a)(2) if:

18 (1) the applicable court records do not contain an
19 order revoking the person's deferred adjudication community
20 supervision; and

21 (2) the date on which the period of deferred
22 adjudication community supervision imposed in the person's case
23 expires has elapsed.

24 (d) Notwithstanding any other provision of this subchapter
25 or Subchapter F, if a [person described by Subsection (a) receives a
26 discharge and dismissal under Article 42A.111, Code of Criminal
27 Procedure, and satisfies the requirements of Section 411.074, the]

1 court that placed a [the] person on deferred adjudication community
2 supervision receives notice from the department under Subsection
3 (b) applicable to the person, the court shall, as soon as
4 practicable after the receipt of the notice, issue an order of
5 nondisclosure of criminal history record information under this
6 subchapter prohibiting criminal justice agencies from disclosing
7 to the public criminal history record information related to the
8 offense giving rise to the deferred adjudication community
9 supervision. ~~[The court shall determine whether the person~~
10 ~~satisfies the requirements of Section 411.074, and if the court~~
11 ~~makes a finding that the requirements of that section are~~
12 ~~satisfied, the court shall issue the order of nondisclosure of~~
13 ~~criminal history record information.~~

14 ~~[(1) at the time the court discharges and dismisses~~
15 ~~the proceedings against the person, if the discharge and dismissal~~
16 ~~occurs on or after the 180th day after the date the court placed the~~
17 ~~person on deferred adjudication community supervision, or~~

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

22 (e) A [(c) The] person who is entitled to an order of
23 nondisclosure of criminal history record information under this
24 section but who is not identified by the department under
25 Subsection (b) may [shall] present to the court that placed the
26 person on deferred adjudication community supervision any evidence
27 necessary to establish that the person is entitled ~~[eligible]~~ to

1 receive an order of nondisclosure of criminal history record
2 information under this section. The court shall prescribe the
3 manner in which the person may present the evidence to the court
4 under this subsection. The court shall determine whether the
5 person satisfies the requirements of this section, and if the court
6 makes a finding that the requirements of this section are
7 satisfied, the court shall issue an order of nondisclosure of
8 criminal history record information under Subsection (d) as soon as
9 practicable after making the finding.

10 (f) Notwithstanding any other law, a [The] person who is
11 entitled to an order of nondisclosure of criminal history record
12 information under this section may not be required to [must] pay any
13 [a \$28] fee relating to the issuance of [to the clerk of the court
14 before the court issues] the order.

15 (g) [~~(d)~~] A person who is not entitled [eligible] to receive
16 an order of nondisclosure of criminal history record information
17 under this section solely because an affirmative finding under
18 Article 42A.105(f), Code of Criminal Procedure, or former Section
19 5(k), Article 42.12, Code of Criminal Procedure, was filed in the
20 papers of the case may file a petition for an order of nondisclosure
21 of criminal history record information under Section 411.0725 if
22 the person otherwise satisfies the requirements of that section.

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

25 (a) This section applies only to a person placed on deferred
26 adjudication community supervision under Subchapter C, Chapter
27 42A, Code of Criminal Procedure, who:

1 (1) is not entitled [~~eligible~~] to receive an order of
2 nondisclosure of criminal history record information under Section
3 411.072; and

4 (2) was placed on deferred adjudication community
5 supervision for an offense other than an offense under Section
6 [49.04](#) or [49.06](#), Penal Code.

7 SECTION 4. This Act takes effect January 1, 2024.