

By: A. Johnson of Harris

H.B. No. 4362

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain criminal defendants for an order of nondisclosure of criminal history record information.

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

SECTION 1. Section 411.0725(e), Government Code, is amended to read as follows:

(e) A person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (3) [~~(2)~~];

(2) the first anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a state jail felony other than a state jail felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal Code;

(3) (3) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

(4) [~~(3)~~] the third [~~fifth~~] anniversary of the

1 discharge and dismissal, if the offense for which the person was
2 placed on deferred adjudication was a felony other than a state jail
3 felony described by Subdivision (2).

4 SECTION 2. The heading to Section 411.073, Government Code,
5 is amended to read as follows:

6 Sec. 411.073. PROCEDURE FOR COMMUNITY SUPERVISION
7 FOLLOWING CONVICTION; CERTAIN MISDEMEANORS AND STATE JAIL
8 FELONIES.

9 SECTION 3. Section 411.073, Government Code, is amended by
10 amending Subsections (a) and (d) and adding Subsection (e) to read
11 as follows:

12 (a) This section applies only to a person placed on
13 community supervision under Chapter 42A, Code of Criminal
14 Procedure:

15 (1) following a conviction of:

16 (A) a misdemeanor other than a misdemeanor under
17 Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05,
18 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; or

19 (B) a state jail felony other than a state jail
20 felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal
21 Code; and

22 (2) under a provision of Chapter 42A, Code of Criminal
23 Procedure, other than Subchapter C, including:

24 (A) a provision that requires the person to serve
25 a term of confinement as a condition of community supervision; or

26 (B) another provision that authorizes placing a
27 person on community supervision after the person has served part of

1 a term of confinement imposed for the offense.

2 (d) A person may petition the court that placed the person
3 on community supervision for an order of nondisclosure of criminal
4 history record information under this section only on or after:

5 (1) the completion of the community supervision, if
6 the offense for which the person was placed on community
7 supervision was a misdemeanor other than a misdemeanor described by
8 Subdivision (3) [~~(2)~~]; [~~or~~]

9 (2) the first anniversary of the date of completion of
10 the community supervision, if the offense for which the person was
11 placed on community supervision was a state jail felony; or

12 (3) the second anniversary of the date of completion
13 of the community supervision, if the offense for which the person
14 was placed on community supervision was a misdemeanor under Chapter
15 20, 21, 22, 25, 42, 43, or 46, Penal Code.

16 (e) A court that issues an order of nondisclosure of
17 criminal history record information may include in the order any
18 offense arising out of the same transaction as the offense for which
19 the order is sought if the other offense:

20 (1) satisfies the requirements for issuance of an
21 order of nondisclosure of criminal history record information under
22 this section or another provision of this subchapter; or

23 (2) has not resulted in a conviction or a dismissal and
24 discharge under Article 42A.111, Code of Criminal Procedure, and is
25 no longer pending.

26 SECTION 4. The heading to Section 411.0735, Government
27 Code, is amended to read as follows:

1 Sec. 411.0735. PROCEDURE FOR CONVICTION; CERTAIN
2 MISDEMEANORS AND STATE JAIL FELONIES.

3 SECTION 5. Section 411.0735, Government Code, is amended by
4 amending Subsections (a) and (d) and adding Subsection (e) to read
5 as follows:

6 (a) This section applies only to a person who:

7 (1) is convicted of:

8 (A) a misdemeanor other than a misdemeanor under
9 Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05,
10 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; or

11 (B) a state jail felony other than a state jail
12 felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal
13 Code; and

14 (2) is not eligible for an order of nondisclosure of
15 criminal history record information under Section 411.073.

16 (d) A person may petition the court that imposed the
17 sentence for an order of nondisclosure of criminal history record
18 information under this section only on or after:

19 (1) the date of completion of the person's sentence, if
20 the offense of which the person was convicted was a misdemeanor
21 punishable by fine only; ~~or~~

22 (2) the first ~~second~~ anniversary of the date of
23 completion of the person's sentence, if the offense of which the
24 person was convicted was a misdemeanor other than a misdemeanor
25 described by Subdivision (1) or (3)(A); or

26 (3) the second anniversary of the date of completion
27 of the person's sentence, if the offense of which the person was

1 convicted was:

2 (A) a misdemeanor under Chapter 20, 21, 22, 25,
3 42, 43, or 46, Penal Code; or

4 (B) a state jail felony.

5 (e) A court that issues an order of nondisclosure of
6 criminal history record information may include in the order any
7 offense arising out of the same transaction as the offense for which
8 the order is sought if the other offense:

9 (1) satisfies the requirements for issuance of an
10 order of nondisclosure of criminal history record information under
11 this section or another provision of this subchapter; or

12 (2) has not resulted in a conviction or a dismissal and
13 discharge under Article 42A.111, Code of Criminal Procedure, and is
14 no longer pending.

15 SECTION 6. Subchapter E-1, Chapter 411, Government Code, is
16 amended by adding Section 411.0738 to read as follows:

17 Sec. 411.0738. PROCEDURE FOR MORE THAN ONE CONVICTION.

18 (a) This section applies only to a person who:

19 (1) has more than one conviction for an offense that is
20 a misdemeanor or state jail felony other than:

21 (A) a misdemeanor under Section 106.041,
22 Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065,
23 Penal Code, or Chapter 71, Penal Code; or

24 (B) a state jail felony under Chapter 19, 20, 21,
25 22, 25, 42, 43, 46, 49, or 71, Penal Code; and

26 (2) is not eligible for an order of nondisclosure of
27 criminal history record information under Section 411.073 or

1 [411.0735.](#)

2 (b) Notwithstanding any other provision of this subchapter
3 or Subchapter F, a person described by Subsection (a) who has
4 completed each sentence imposed, including any term of confinement
5 or period of community supervision imposed and payment of all
6 finances, costs, and restitution imposed, may petition any court that
7 imposed at least one of those sentences for an order of
8 nondisclosure of criminal history record information under this
9 section if the person satisfies the requirements of this section
10 and Section [411.074.](#)

11 (c) Except as provided by Subsection (d), after notice to
12 the state, an opportunity for a hearing, and a determination that
13 the person is entitled to file the petition and issuance of the
14 order is in the best interest of justice, the court shall issue an
15 order prohibiting criminal justice agencies from disclosing to the
16 public criminal history record information related to the offenses
17 for which the person was convicted.

18 (d) A court may issue an order of nondisclosure of criminal
19 history record information under this section for a misdemeanor
20 under Chapter [20](#), [21](#), [22](#), [25](#), [42](#), [43](#), or [46](#), Penal Code, other than a
21 misdemeanor under Section [22.01](#) of that code, only if the person:

22 (1) was placed on community supervision for the
23 offense; and

24 (2) completed the period of community supervision
25 imposed for the offense.

26 (e) A person may petition a court described by Subsection
27 (b) for an order of nondisclosure of criminal history record

1 information under this section only on or after:

2 (1) the third anniversary of the date of the
3 completion of all sentences imposed if the most serious offense for
4 which the order is sought is a misdemeanor;

5 (2) the fourth anniversary of the date of the
6 completion of all sentences imposed if:

7 (A) the most serious offense for which the order
8 is sought is a state jail felony; and

9 (B) the person's last sentence included a period
10 of community supervision that the person completed; or

11 (3) if neither Subdivision (1) nor (2) applies, the
12 fifth anniversary of the date of the completion of all sentences
13 imposed.

14 SECTION 7. This Act takes effect September 1, 2023.