

By: A. Johnson of Harris

H.B. No. 4362

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

11 (1) the discharge and dismissal, if the offense for  
12 which the person was placed on deferred adjudication was a  
13 misdemeanor other than a misdemeanor described by Subdivision (3)  
14 [~~(2)~~];

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

20 (3) (3) the second anniversary of the discharge and  
21 dismissal, if the offense for which the person was placed on  
22 deferred adjudication was a misdemeanor under Chapter 20, 21, 22,  
23 25, 42, 43, or 46, Penal Code; or

24 (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 final conviction and is no  
24 longer pending.

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

27 Sec. 411.0735. PROCEDURE FOR CONVICTION; CERTAIN

1 MISDEMEANORS AND STATE JAIL FELONIES.

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

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

6 (1) is convicted of:

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

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

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

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

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

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

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

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

3                   (B) a state jail felony.

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

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

11                   (2) has not resulted in a final conviction and is no  
12 longer pending.

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

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

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

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

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

22                   (B) a state jail felony under Chapter 19, 20, 21,  
23 22, 25, 42, 43, 46, 49, or 71, Penal Code; and

24                   (2) is not eligible for an order of nondisclosure of  
25 criminal history record information under Section 411.073 or  
26 411.0735.

27           (b) Notwithstanding any other provision of this subchapter

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

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

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

20 (1) was placed on community supervision for the  
21 offense; and

22 (2) completed the period of community supervision  
23 imposed for the offense.

24 (e) A person may petition a court described by Subsection  
25 (b) for an order of nondisclosure of criminal history record  
26 information under this section only on or after:

27 (1) the third anniversary of the date of the

1 completion of all sentences imposed if the most serious offense for  
2 which the order is sought is a misdemeanor;

3 (2) the fourth anniversary of the date of the  
4 completion of all sentences imposed if:

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

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

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

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