

By: Parker

S.B. No. 1012

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain victims of trafficking of persons or compelling prostitution for an order of nondisclosure of criminal history record information.

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

SECTION 1. Sections 411.0728(a), (b), (b-1), (b-3), (c), and (c-1), Government Code, are amended to read as follows:

(a) This section applies only to a person:

(1) who is convicted of or placed on deferred adjudication community supervision for:

(A) a misdemeanor [an offense] under:

(i) Subchapter D, Chapter 481 [(A) Section 481.120], Health and Safety Code[, if the offense is punishable under Subsection (b)(1)]; or

(ii) [(B) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1),

[(C)] Section 31.03 or 37.10, Penal Code[, if the offense is punishable under Subsection (e)(1) or (2)]; or

(B) an offense under [(D)] Section 43.02 or 49.02, Penal Code; and

(2) who, if requested by the applicable law enforcement agency or prosecuting attorney to provide assistance in the investigation or prosecution of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense

1 containing elements that are substantially similar to the elements  
2 of an offense under any of those sections:

3 (A) provided assistance in the investigation or  
4 prosecution of the offense; or

5 (B) did not provide assistance in the  
6 investigation or prosecution of the offense due to the person's age  
7 or a physical or mental disability resulting from being a victim of  
8 an offense described by this subdivision.

9 (b) Notwithstanding any other provision of this subchapter  
10 or Subchapter F, a person described by Subsection (a) who satisfies  
11 the requirements of Section 411.074(b) may petition the court that  
12 convicted the person or placed the person on deferred adjudication  
13 community supervision for an order of nondisclosure of criminal  
14 history record information under this section on the grounds that  
15 the person committed the offense [~~solely~~] as a victim of, or in  
16 connection with being a victim of, an offense under Section 20A.02,  
17 20A.03, or 43.05, Penal Code.

18 (b-1) A petition under Subsection (b) must:

19 (1) be in writing;

20 (2) allege specific facts that, if proved, would  
21 establish that the petitioner committed the offense described by  
22 Subsection (a)(1) [~~solely~~] as a victim of, or in connection with  
23 being a victim of, an offense under Section 20A.02, 20A.03, or  
24 43.05, Penal Code; and

25 (3) assert that if the person has previously submitted  
26 a petition for an order of nondisclosure under this section, the  
27 person has not committed an offense described by Subsection (a)(1)

1 on or after the date on which the person's first petition under this  
2 section was submitted.

3 (b-3) A person convicted of or placed on deferred  
4 adjudication community supervision for more than one offense  
5 described by Subsection (a)(1) that the person committed [~~solely~~]  
6 as a victim of, or in connection with being a victim of, an offense  
7 under Section 20A.02, 20A.03, or 43.05, Penal Code, may file a  
8 petition for an order of nondisclosure of criminal history record  
9 information under this section with respect to each offense, and  
10 may request consolidation of those petitions, in a district court  
11 in the county where the person was most recently convicted or placed  
12 on deferred adjudication community supervision as described by this  
13 subsection. On receipt of a request for consolidation, the court  
14 shall consolidate the petitions and exercise jurisdiction over the  
15 petitions, regardless of the county in which the offenses described  
16 by Subsection (a)(1) occurred. For each offense that is the subject  
17 of a consolidated petition and that occurred in a county other than  
18 the county in which the court consolidating the petitions is  
19 located, the clerk of the court, in addition to the clerk's duties  
20 under Subsection (b-2), shall promptly serve a copy of the  
21 consolidated petition and any supporting document related to the  
22 applicable offense on the appropriate office of the attorney  
23 representing the state on behalf of the other county. Each attorney  
24 representing the state who receives a copy of a consolidated  
25 petition under this subsection may file a response to the petition  
26 in accordance with Subsection (b-2).

27 (c) After notice to the state and an opportunity for a

1 hearing, the court having jurisdiction over the petition shall  
2 issue an order prohibiting criminal justice agencies from  
3 disclosing to the public criminal history record information  
4 related to the offense if the court determines that:

5 (1) the person committed the offense described by  
6 Subsection (a)(1) [~~solely~~] as a victim of, or in connection with  
7 being a victim of, an offense under Section 20A.02, 20A.03, or  
8 43.05, Penal Code;

9 (2) if applicable, the person did not commit another  
10 offense described by Subsection (a)(1) on or after the date on which  
11 the person's first petition for an order of nondisclosure under  
12 this section was submitted; and

13 (3) issuance of the order is in the best interest of  
14 justice.

15 (c-1) In determining whether a person committed an offense  
16 described by Subsection (a)(1) [~~solely~~] as a victim of, or in  
17 connection with being a victim of, an offense under Section 20A.02,  
18 20A.03, or 43.05, Penal Code, the court may consider any order of  
19 nondisclosure previously granted to the person under this section.

20 SECTION 2. Article 56A.052(e), Code of Criminal Procedure,  
21 is amended to read as follows:

22 (e) A victim of an offense under Section 20A.02, 20A.03, or  
23 43.05, Penal Code, is entitled to be informed that the victim may  
24 petition for an order of nondisclosure of criminal history record  
25 information under Section 411.0728, Government Code, if the victim:

26 (1) has been convicted of or placed on deferred  
27 adjudication community supervision for an offense described by

1 Subsection (a)(1) of that section; and

2           (2) committed that offense [~~solely~~] as a victim of, or  
3 in connection with being a victim of, an offense under Section  
4 [20A.02](#), [20A.03](#), or [43.05](#), Penal Code.

5           SECTION 3. This Act takes effect September 1, 2023.