

By: West

S.B. No. 219

A BILL TO BE ENTITLED

AN ACT

relating to orders of nondisclosure of criminal history record information for certain criminal defendants.

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

SECTION 1. Article [42A.105\(f\)](#), Code of Criminal Procedure, is amended to read as follows:

(f) If a judge places on deferred adjudication community supervision a defendant charged with a misdemeanor under Section [49.04](#) or [49.06](#) [~~other than a misdemeanor under Chapter [20](#), [21](#), [22](#), [25](#), [42](#), [43](#), [46](#), or [71](#)~~], Penal Code, the judge shall make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that it is not in the best interest of justice that the defendant receive an automatic order of nondisclosure under Section [411.0726](#) [~~[411.072](#)~~], Government Code.

SECTION 2. Section [411.0716](#), Government Code, is amended to read as follows:

Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. This [~~(a)~~ ~~Except as provided by Subsection (b), this~~] subchapter applies to the issuance of an order of nondisclosure of criminal history record information for an offense committed before, on, or after January [~~September~~] 1, 2026 [~~2017~~].

~~[(b) Section [411.072](#) applies only to a person described by Subsection (a) of that section who receives a discharge and~~

1 ~~dismissal under Article 42A.111, Code of Criminal Procedure, on or~~
2 ~~after September 1, 2017.]~~

3 SECTION 3. Subchapter E-1, Chapter 411, Government Code, is
4 amended by adding Section 411.0718 to read as follows:

5 Sec. 411.0718. PROCEDURE FOR AUTOMATIC ORDER OF
6 NONDISCLOSURE. (a) This section applies only to a person entitled
7 under Section 411.0719, 411.0721, or 411.0723 to receive an
8 automatic order of nondisclosure of criminal history record
9 information under this section.

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

12 (1) review the records in the department's
13 computerized criminal history system and, based on the relevant
14 information present in the system, identify and compile a list of
15 each person described by Subsection (a); and

16 (2) for each person identified on the list described
17 by Subdivision (1), provide to the applicable court that convicted
18 the person or placed the person on deferred adjudication community
19 supervision:

20 (A) notice of the person's entitlement to an
21 order of nondisclosure of criminal history record information under
22 this section; and

23 (B) a copy of the list described by Subdivision
24 (1).

25 (c) In identifying persons under Subsection (b)(1), the
26 department shall conduct a national criminal history background
27 check, which must include a search of criminal history record

1 information maintained or indexed by the Federal Bureau of
2 Investigation, for the purpose of identifying any criminal history
3 record information not in the department's computerized criminal
4 history system that would make a person ineligible to receive an
5 automatic order of nondisclosure of criminal history record
6 information under this section.

7 (d) Notwithstanding any other provision of this subchapter
8 or Subchapter F and except as provided by Subsection (e), if a court
9 that convicted a person or placed a person on deferred adjudication
10 community supervision receives notice from the department under
11 Subsection (b) that the person is entitled to an order of
12 nondisclosure of criminal history record information under this
13 section, the court shall, as soon as practicable after the receipt
14 of the notice, issue an order of nondisclosure of criminal history
15 record information under this subchapter prohibiting criminal
16 justice agencies from disclosing to the public criminal history
17 record information related to the offense for which the person was
18 convicted or giving rise to the deferred adjudication community
19 supervision.

20 (e) A court may not issue an order of nondisclosure of
21 criminal history record information under this section for a person
22 who would otherwise be entitled to the order under Section 411.0723
23 if the court determines that the offense for which the order is
24 sought, other than an offense under Section 22.01, Penal Code, was
25 violent or sexual in nature.

26 (f) A person who is entitled to an order of nondisclosure of
27 criminal history record information under this section but who is

1 not identified by the department under Subsection (b) may present
2 to the court that convicted the person or placed the person on
3 deferred adjudication community supervision, as applicable, any
4 evidence necessary to establish that the person is entitled to
5 receive an order of nondisclosure of criminal history record
6 information under this section. The court shall prescribe the
7 manner in which the person may present the evidence to the court
8 under this subsection. The court shall determine whether the
9 person satisfies the requirements of this section, and if the court
10 makes a finding that the requirements of this section are
11 satisfied, the court shall issue an order of nondisclosure of
12 criminal history record information under Subsection (d) as soon as
13 practicable after making the finding.

14 (g) Notwithstanding any other law, a person who is entitled
15 to an order of nondisclosure of criminal history record information
16 under this section may not be required to pay any fee relating to
17 the issuance of the order.

18 SECTION 4. Sections [411.0725](#), [411.073](#), and [411.0735](#),
19 Government Code, are redesignated as Sections 411.0719, 411.0721,
20 and 411.0723, Government Code, and amended to read as follows:

21 Sec. [411.0719](#) [[411.0725](#)]. [~~PROCEDURE~~ ~~FOR~~] DEFERRED
22 ADJUDICATION COMMUNITY SUPERVISION; FELONIES AND CERTAIN
23 MISDEMEANORS ENTITLED TO AUTOMATIC ORDER OF NONDISCLOSURE. (a)
24 Subject to Subsection (b), a person is entitled to an automatic
25 order of nondisclosure of criminal history record information under
26 Section 411.0718 if the person:

27 (1) was [~~This section applies only to a person~~] placed

1 on deferred adjudication community supervision under Subchapter C,
2 Chapter 42A, Code of Criminal Procedure, ~~[who:~~

3 ~~[(1) is not eligible to receive an order of~~
4 ~~nondisclosure of criminal history record information under Section~~
5 ~~411.072; and~~

6 ~~[(2) was placed on deferred adjudication community~~
7 ~~supervision]~~ for an offense other than an offense under Section
8 49.04 or 49.06, Penal Code; i

9 (2) received ~~[-~~

10 ~~[(b) Notwithstanding any other provision of this subchapter~~
11 ~~or Subchapter F, if a person described by Subsection (a) receives]~~ a
12 dismissal and discharge ~~[and dismissal]~~ under Article 42A.111, Code
13 of Criminal Procedure, for the offense described by Subdivision
14 (1);

15 (3) ~~[and]~~ satisfies the requirements of Section
16 411.074; and

17 (4) has not previously received an order of
18 nondisclosure of criminal history record information under this
19 subchapter or other law for the offense described by Subdivision
20 (1).

21 (b) ~~[, the person may petition the court that placed the~~
22 ~~person on deferred adjudication community supervision for an order~~
23 ~~of nondisclosure of criminal history record information under this~~
24 ~~section.~~

25 ~~[(c) Except as provided by Section 411.074, a person may~~
26 ~~petition the court for an order of nondisclosure under this section~~
27 ~~regardless of whether the person has been previously convicted of~~

1 ~~or placed on deferred adjudication community supervision for~~
2 ~~another offense.~~

3 ~~[(d) After notice to the state, an opportunity for a~~
4 ~~hearing, and a determination that the person is entitled to file the~~
5 ~~petition and issuance of the order is in the best interest of~~
6 ~~justice, the court shall issue an order prohibiting criminal~~
7 ~~justice agencies from disclosing to the public criminal history~~
8 ~~record information related to the offense giving rise to the~~
9 ~~deferred adjudication community supervision.~~

10 ~~[(e)]~~ A person described by Subsection (a) becomes entitled
11 to an automatic ~~[may petition the court that placed the person on~~
12 ~~deferred adjudication community supervision for an]~~ order of
13 nondisclosure of criminal history record information under Section
14 411.0718 ~~[this section only]~~ on ~~[or after]~~:

15 (1) the later of the following ~~[discharge and~~
16 ~~dismissal]~~, if the offense for which the person was placed on
17 deferred adjudication was a misdemeanor other than a misdemeanor
18 described by Subdivision (2):

19 (A) the date of the dismissal and discharge; or
20 (B) the 180th day after the date the person was
21 placed on deferred adjudication community supervision;

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

26 (3) the fifth anniversary of the dismissal and
27 discharge ~~[and dismissal]~~, if the offense for which the person was

1 placed on deferred adjudication was a felony.

2 (c) A person described by Subsection (a), following the
3 period described by Subsection (b), is entitled under this section
4 to receive an order of nondisclosure of criminal history record
5 information regardless of whether the person has been previously
6 convicted of or placed on deferred adjudication community
7 supervision for another offense.

8 Sec. 411.0721 [411.073]. [~~PROCEDURE~~ FOR] COMMUNITY
9 SUPERVISION FOLLOWING CONVICTION; CERTAIN NONVIOLENT MISDEMEANORS
10 AND FELONIES ENTITLED TO AUTOMATIC ORDER OF NONDISCLOSURE. (a)
11 Subject to Subsection (b), a person is entitled to an automatic
12 order of nondisclosure of criminal history record information under
13 Section 411.0718 if:

14 (1) the [~~This section applies only to a~~] person is
15 placed on community supervision under Chapter 42A, Code of Criminal
16 Procedure:

17 (A) [(1)] following a conviction of an offense [~~a~~
18 ~~misdemeanor~~] other than:

19 (i) an offense [~~a misdemeanor~~] under:

20 (a) Section 106.041, Alcoholic
21 Beverage Code;

22 (b) [7] Section 28.02, 33.021, 33.05,
23 37.03, 42.072, 49.04, 49.045, 49.05, 49.06, [ex] 49.065, 49.07, or
24 49.08, Penal Code;

25 (c) [7-ex] Chapter 29, 71, or 76,
26 Penal Code; or

27 (d) Section 30.02, Penal Code, that is

1 punishable under Subsection (d) of that section;

2 (ii) a felony under:

3 (a) Title 5, Penal Code;

4 (b) Chapter 25, 36, or 39, Penal Code;

5 (c) Section 42.08, 42.09, 42.091,
6 42.092, 42.10, or 42.105, Penal Code; or

7 (d) Subchapter B, Chapter 43, Penal
8 Code; or

9 (iii) a traffic offense that is punishable
10 by fine only; and

11 (B) [(2)] under a provision of Chapter 42A, Code
12 of Criminal Procedure, other than Subchapter C, including:

13 (i) [(A)] a provision that requires the
14 person to serve a term of confinement as a condition of community
15 supervision; or

16 (ii) [(B)] another provision that
17 authorizes placing a person on community supervision after the
18 person has served part of a term of confinement imposed for the
19 offense;

20 (2) the person's [

21 ~~[(b) Notwithstanding any other provision of this subchapter~~
22 ~~or Subchapter F, a person described by Subsection (a) whose]~~
23 community supervision was [is] not revoked and the person completed
24 ~~[who completes]~~ the period of community supervision, including any
25 term of confinement imposed and payment of all fines, costs, and
26 restitution imposed, for the offense described by Subdivision
27 (1)(A); [may petition the court that placed the person on community

1 ~~supervision for an order of nondisclosure of criminal history~~
2 ~~record information under this section if the person:]~~

3 (3) the person ~~[(1)]~~ satisfies the requirements of
4 ~~[this section and] Section 411.074; [and]~~

5 (4) the person ~~[(2)]~~ has never been previously
6 convicted of or placed on deferred adjudication community
7 supervision for another offense other than a traffic offense that
8 is punishable by fine only; and

9 (5) the person has not previously received an order of
10 nondisclosure of criminal history record information under this
11 subchapter or other law for the offense described by Subdivision
12 (1)(A).

13 (b) ~~[(c) After notice to the state, an opportunity for a~~
14 ~~hearing, and a determination that the person is entitled to file the~~
15 ~~petition and issuance of the order is in the best interest of~~
16 ~~justice, the court shall issue an order prohibiting criminal~~
17 ~~justice agencies from disclosing to the public criminal history~~
18 ~~record information related to the offense giving rise to the~~
19 ~~community supervision.~~

20 ~~[(d)]~~ A person described by Subsection (a) becomes entitled
21 to an automatic ~~[may petition the court that placed the person on~~
22 ~~community supervision for an]~~ order of nondisclosure of criminal
23 history record information under Section 411.0718 ~~[this section~~
24 ~~only] on [or after]:~~

25 (1) the date of completion of the community
26 supervision, if the offense for which the person was placed on
27 community supervision was a misdemeanor other than a misdemeanor

1 described by Subdivision (2); ~~[or]~~

2 (2) the second anniversary of the date of completion
3 of the community supervision, if the offense for which the person
4 was placed on community supervision was a misdemeanor under Chapter
5 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

6 (3) the fifth anniversary of the date of completion of
7 the community supervision, if the offense for which the person was
8 placed on community supervision was a felony.

9 Sec. 411.0723 [411.0735]. [~~PROCEDURE FOR CONVICTION,~~
10 ~~CERTAIN NONVIOLENT MISDEMEANOR AND FELONY CONVICTIONS ENTITLED TO~~
11 ~~AUTOMATIC ORDER OF NONDISCLOSURE~~ [~~MISDEMEANORS~~]. (a) Subject to
12 Subsection (b), [~~This section applies only to~~] a person is entitled
13 to an automatic order of nondisclosure of criminal history record
14 information under Section 411.0718 if the person ~~[who]~~:

15 (1) is convicted of an offense [~~a misdemeanor~~] other
16 than:

17 (A) an offense [~~a misdemeanor~~] under:

18 (i) Section 106.041, Alcoholic Beverage
19 Code;

20 (ii) [~~7~~] Section 28.02, 33.021, 33.05,
21 37.03, 42.072, 49.04, 49.045, 49.05, 49.06, ~~[or]~~ 49.065, 49.07, or
22 49.08, Penal Code;

23 (iii) [~~7~~ ~~or~~] Chapter 29, 71, or 76, Penal
24 Code; or

25 (iv) Section 30.02, Penal Code, that is
26 punishable under Subsection (d) of that section;

27 (B) a felony under:

1 (i) Title 5, Penal Code;
2 (ii) Chapter 25, 36, or 39, Penal Code;
3 (iii) Section 42.08, 42.09, 42.091, 42.092,
4 42.10, or 42.105, Penal Code; or

5 (iv) Subchapter B, Chapter 43, Penal Code;
6 or

7 (C) a traffic offense that is punishable by fine
8 only; [and]

9 (2) is not entitled under Section 411.0721 to receive
10 [eligible for] an order of nondisclosure of criminal history record
11 information;

12 (3) completed [under Section 411.073.

13 ~~[(b) Notwithstanding any other provision of this subchapter~~
14 ~~or Subchapter F, a person described by Subsection (a) who~~
15 ~~completes] the person's sentence, including any term of confinement~~
16 ~~imposed and payment of all fines, costs, and restitution imposed,~~
17 ~~for the offense described by Subdivision (1);~~

18 (4) [may petition the court that imposed the sentence
19 for an order of nondisclosure of criminal history record
20 information under this section if the person:

21 ~~[(1)]~~ satisfies the requirements of ~~[this section and]~~
22 Section 411.074; [and]

23 (5) [-(2)] has never been previously convicted of or
24 placed on deferred adjudication community supervision for another
25 offense other than a traffic offense that is punishable by fine
26 only; and

27 (6) has not previously received an order of

1 nondisclosure of criminal history record information under this
2 subchapter or other law for the offense described by Subdivision
3 (1).

4 (b) [~~(c)~~ ~~Except as provided by Subsection (c-1), after~~
5 ~~notice to the state, an opportunity for a hearing, and a~~
6 ~~determination that the person is entitled to file the petition and~~
7 ~~issuance of the order is in the best interest of justice, the court~~
8 ~~shall issue an order prohibiting criminal justice agencies from~~
9 ~~disclosing to the public criminal history record information~~
10 ~~related to the offense for which the person was convicted.~~

11 [~~(c-1)~~ ~~A court may not issue an order of nondisclosure of~~
12 ~~criminal history record information under this section if the court~~
13 ~~determines that the offense for which the order is sought, other~~
14 ~~than an offense under Section 22.01, Penal Code, was violent or~~
15 ~~sexual in nature.~~

16 [~~(d)~~] A person described by Subsection (a) becomes entitled
17 to an automatic [~~may petition the court that imposed the sentence~~
18 ~~for an~~] order of nondisclosure of criminal history record
19 information under Section 411.0718 [~~this section only~~] on [~~or~~
20 ~~after~~]:

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

24 (2) the second anniversary of the date of completion
25 of the person's sentence, if the offense of which the person was
26 convicted was a misdemeanor other than a misdemeanor described by
27 Subdivision (1); or

1 (3) the seventh anniversary of the date of completion
2 of the person's sentence, if the offense of which the person was
3 convicted was a felony.

4 SECTION 5. Section 411.0745(b), Government Code, is amended
5 to read as follows:

6 (b) Notwithstanding any other law, a person who petitions
7 the court for an order of nondisclosure of criminal history record
8 information under this subchapter may not be required to pay any
9 ~~[The petition must be accompanied by payment of a]~~ fee relating to:

10 (1) [that generally applies to] the filing of the
11 petition; or

12 (2) the issuance of the order of nondisclosure [a
13 ~~civil case].~~

14 SECTION 6. Section 411.072, Government Code, is repealed.

15 SECTION 7. This Act takes effect January 1, 2026.