

Amend **HB 3093** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 411.081, Government Code, is amended by amending Subsections (d), (g), and (h) and by adding Subsections (g-1), (g-2), (i), and (j) to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court under this subsection regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state and a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order ~~[an individual or agency described by Section 411.083(b)(1), (2), or (3)]~~. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure on payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The payment may be made 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 (2);

(2) the second ~~[fifth]~~ 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, or 46, Penal Code; or

(3) the fifth [~~10th~~] anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(g) When an order of nondisclosure is issued under this section [~~subsection~~], the clerk of the court shall send a copy of the order by certified mail, return receipt requested, to the Crime Records Service of the Department of Public Safety. Not later than 10 business days after receipt of the order, the [~~The~~] Department of Public Safety shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send a copy of the order by mail or electronic means to all:

(1) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(2) [~~, and to all~~] central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department.

(g-1) Not later than 30 business days after receipt of an order from the Department of Public Safety under Subsection (g), an individual or entity described by Subsection (g)(1) shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.

(g-2) A person whose criminal history record information has been sealed under this section is not required in any application for employment, information, or licensing to state that the person has been the subject of any criminal proceeding related to the information that is the subject of an order issued under this section.

(h) The clerk of a court that collects a fee under

Subsection (d) shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund. The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received; ~~and~~

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas State Board of Medical Examiners;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a

community center providing services to persons with mental illness or retardation;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Board of Nurse Examiners;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district;

(18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and loan commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy; and

(21) the Texas Department of Licensing and Regulation.

(j) If the Department of Public Safety receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed five or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of nondisclosure has been issued, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

SECTION _____. Article 35.12, Code of Criminal Procedure, is amended to read as follows:

Art. 35.12. MODE OF TESTING. (a) In testing the qualification of a prospective juror after the juror [~~he~~] has been sworn, the juror [~~he~~] shall be asked by the court, or under its direction:

1. Except for failure to register, are you a qualified voter in this county and state under the Constitution and laws of this state?

2. Have you ever been convicted of theft or any felony?

3. Are you under indictment or legal accusation for theft or any felony?

(b) In testing the qualifications of a prospective juror,

with respect to whether the juror has been the subject of an order of nondisclosure or has a criminal history that includes information subject to that order, the juror may state only that the matter in question has been sealed.

SECTION _____. The changes in law made by this Act relating to a person's eligibility for an order of nondisclosure apply to criminal history record information related to a deferred adjudication or similar procedure described by Subsection (f), Section 411.081, Government Code, regardless of whether the deferred adjudication or procedure is entered before, on, or after the effective date of this Act.