

By: Hinojosa

S.B. No. 1448

A BILL TO BE ENTITLED

AN ACT

relating to orders of nondisclosure issued for records of certain fine-only misdemeanors; authorizing a fee.

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

SECTION 1. Section 103.0211, Government Code, is amended to read as follows:

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . \$3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . \$3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . \$3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . \$15 or, in specified counties, \$30;

(3) a speedy trial filing fee in El Paso County (Sec.

1 54.745, Government Code) . . . \$100;

2 (4) costs for use of magistrate in Brazos County (Sec.
3 54.1116, Government Code) . . . not to exceed \$50;

4 (5) the costs of a criminal magistrate if the court
5 determines that the nonprevailing party is able to defray the
6 costs:

7 (A) in Bexar County (Sec. 54.913, Government
8 Code) . . . magistrate's fees;

9 (B) in Dallas County (Sec. 54.313, Government
10 Code) . . . magistrate's fees;

11 (C) in Lubbock County (Sec. 54.883, Government
12 Code) . . . magistrate's fees;

13 (D) in Tarrant County (Sec. 54.663, Government
14 Code) . . . magistrate's fees;

15 (E) in Travis County (Sec. 54.983, Government
16 Code) . . . magistrate's fees; and

17 (F) in Williamson County (Sec. 54.958,
18 Government Code) . . . expense of the magistrate;

19 (6) an administrative fee for participation in certain
20 community supervision programs (Sec. 76.015, Government Code)
21 . . . not less than \$25 and not more than \$60 per month; ~~and~~

22 (7) fee paid on filing a petition for an order of
23 nondisclosure of criminal history record information in certain
24 deferred adjudication cases (Sec. 411.081(d) [~~411.081~~], Government
25 Code) . . . \$28; and

26 (8) fee paid on filing a petition for an order of
27 nondisclosure of criminal history record information in certain

1 fine-only misdemeanor cases (Sec. 411.081(d-1), Government Code)
2 . . . \$50.

3 SECTION 2. Section 411.081, Government Code, is amended by
4 adding Subsection (d-1) and amending Subsections (e), (h), and (i)
5 to read as follows:

6 (d-1) Notwithstanding any other provision of this chapter,
7 a person who is convicted of and has satisfied the judgment for or
8 who has received a dismissal after deferral of disposition for a
9 fine-only misdemeanor, other than a traffic offense or an offense
10 under a municipal ordinance or county order, and who satisfies the
11 requirements of Subsection (e), may petition the court that
12 convicted or granted a dismissal to the person for an order of
13 nondisclosure under this subsection. Subject to Subsection (e), a
14 person may petition the court under this subsection regardless of
15 whether the person has been previously convicted of or granted a
16 dismissal for a fine-only misdemeanor offense. After notice to the
17 state and a hearing on whether the person is entitled to file the
18 petition and issuance of the order is in the best interest of
19 justice, the court shall issue an order prohibiting criminal
20 justice agencies from disclosing to the public criminal history
21 record information related to the fine-only misdemeanor offense
22 that is the subject of the petition. As a condition of granting the
23 petition under this subsection for a person convicted of the
24 offense, a court may require the defendant to perform community
25 service, pay a fee, or both perform the community service and pay
26 the fee as if the defendant had been put on probation pending
27 deferred disposition under Article 45.051, Code of Criminal

1 Procedure. A criminal justice agency may disclose criminal history
2 record information that is the subject of an order of nondisclosure
3 under this subsection only to other criminal justice agencies, for
4 criminal justice or regulatory licensing purposes, an agency or
5 entity listed in Subsection (i), or the person who is the subject of
6 the order. A person may petition the court for an order of
7 nondisclosure under this subsection on payment of a \$50 fee to the
8 clerk of the court in addition to any other fee that generally
9 applies to the filing of a civil petition. The payment may be made
10 only on or after the first anniversary of the conviction or
11 dismissal, as applicable.

12 (e) A person is entitled to petition the court under
13 Subsection (d) or (d-1) only if during any [~~the~~] period of the
14 deferred adjudication community supervision for which the order of
15 nondisclosure is requested and during the applicable period
16 preceding the defendant's eligibility to file a petition described
17 by Subsection (d)(1), (2), or (3) or (d-1), as appropriate, the
18 person is not convicted of or placed on deferred adjudication
19 community supervision under Section 5, Article 42.12, Code of
20 Criminal Procedure, for any offense other than an offense under the
21 Transportation Code punishable by fine only. A person is not
22 entitled to petition the court under Subsection (d) or (d-1) if the
23 person was placed on the deferred adjudication community
24 supervision for or has been previously convicted or placed on any
25 other deferred adjudication for:

26 (1) an offense requiring registration as a sex
27 offender under Chapter 62, Code of Criminal Procedure;

1 (2) an offense under Section 20.04, Penal Code,
2 regardless of whether the offense is a reportable conviction or
3 adjudication for purposes of Chapter 62, Code of Criminal
4 Procedure;

5 (3) an offense under Section 19.02, 19.03, 22.04,
6 22.041, 25.07, or 42.072, Penal Code; or

7 (4) any other offense involving family violence, as
8 defined by Section 71.004, Family Code.

9 (h) The clerk of a court that collects a fee under
10 Subsection (d) or (d-1) shall remit the fee to the comptroller not
11 later than the last day of the month following the end of the
12 calendar quarter in which the fee is collected, and the comptroller
13 shall deposit the fee in the general revenue fund. The Department
14 of Public Safety shall submit a report to the legislature not later
15 than December 1 of each even-numbered year that includes
16 information on:

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

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

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

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

27 (i) A criminal justice agency may disclose criminal history

1 record information that is the subject of an order of nondisclosure
2 under this section [~~Subsection (d)~~] to the following noncriminal
3 justice agencies or entities only:

4 (1) the State Board for Educator Certification;

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

8 (3) the Texas Medical Board;

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

11 (5) the Board of Law Examiners;

12 (6) the State Bar of Texas;

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

15 (8) the Texas School for the Deaf;

16 (9) the Department of Family and Protective Services;

17 (10) the Texas Juvenile Justice Department [~~Youth~~
18 ~~Commission~~];

19 (11) the Department of Assistive and Rehabilitative
20 Services;

21 (12) the Department of State Health Services, a local
22 mental health service, a local mental retardation authority, or a
23 community center providing services to persons with mental illness
24 or retardation;

25 (13) the Texas Private Security Board;

26 (14) a municipal or volunteer fire department;

27 (15) the Texas Board of Nursing;

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

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

5 (18) [~~the Texas Juvenile Probation Commission,~~
6 [~~(19)~~] the securities commissioner, the banking
7 commissioner, the savings and mortgage lending commissioner, the
8 consumer credit commissioner, or the credit union commissioner;

9 (19) [~~(20)~~] the Texas State Board of Public
10 Accountancy;

11 (20) [~~(21)~~] the Texas Department of Licensing and
12 Regulation;

13 (21) [~~(22)~~] the Health and Human Services Commission;

14 (22) [~~(23)~~] the Department of Aging and Disability
15 Services;

16 (23) [~~(24)~~] the Texas Education Agency;

17 (24) [~~(25)~~] the Guardianship Certification Board;

18 (25) [~~(26)~~] a county clerk's office in relation to a
19 proceeding for the appointment of a guardian under Chapter XIII,
20 Texas Probate Code;

21 (26) [~~(27)~~] the Department of Information Resources
22 but only regarding an employee, applicant for employment,
23 contractor, subcontractor, intern, or volunteer who provides
24 network security services under Chapter 2059 to:

25 (A) the Department of Information Resources; or

26 (B) a contractor or subcontractor of the
27 Department of Information Resources;

- 1 (27) [~~(28)~~] the Court Reporters Certification Board;
2 (28) [~~(29)~~] the Texas Department of Insurance; and
3 (29) [~~(30)~~] the Teacher Retirement System of Texas.

4 SECTION 3. Section 411.0851(a), Government Code, is amended
5 to read as follows:

6 (a) A private entity that compiles and disseminates for
7 compensation criminal history record information shall destroy and
8 may not disseminate any information in the possession of the entity
9 with respect to which the entity has received notice that:

10 (1) an order of expunction has been issued under
11 Article 55.02, Code of Criminal Procedure; or

12 (2) an order of nondisclosure has been issued under
13 Section 411.081 [~~411.081(d)~~].

14 SECTION 4. The heading to Section 552.142, Government Code,
15 is amended to read as follows:

16 Sec. 552.142. EXCEPTION: CONFIDENTIALITY OF RECORDS OF
17 CERTAIN CRIMINAL HISTORY INFORMATION [~~DEFERRED ADJUDICATIONS~~].

18 SECTION 5. Section 552.142(a), Government Code, is amended
19 to read as follows:

20 (a) Information is excepted from the requirements of
21 Section 552.021 if an order of nondisclosure with respect to the
22 information has been issued under Section 411.081 [~~411.081(d)~~].

23 SECTION 6. Section 552.1425(a), Government Code, is amended
24 to read as follows:

25 (a) A private entity that compiles and disseminates for
26 compensation criminal history record information may not compile or
27 disseminate information with respect to which the entity has

1 received notice that:

2 (1) an order of expunction has been issued under
3 Article 55.02, Code of Criminal Procedure; or

4 (2) an order of nondisclosure has been issued under
5 Section 411.081 [~~411.081(d)~~].

6 SECTION 7. The change in law made by this Act applies to a
7 petition for an order of nondisclosure that is filed on or after the
8 effective date of this Act, regardless of whether the misdemeanor
9 that is the subject of the petition occurred before, on, or after
10 the effective date of this Act.

11 SECTION 8. This Act takes effect September 1, 2013.