

1-1 By: Hinojosa S.B. No. 1448
 1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 22, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 4, Nays 2; April 22, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15		X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1448 By: Huffman

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to orders of nondisclosure issued for records of certain
 1-20 fine-only misdemeanors; authorizing a fee.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 103.0211, Government Code, is amended to
 1-23 read as follows:

1-24 Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
 1-25 CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party
 1-26 to a civil suit, as applicable, shall pay the following fees and
 1-27 costs under the Government Code if ordered by the court or otherwise
 1-28 required:

1-29 (1) a court reporter fee when testimony is taken:
 1-30 (A) in a criminal court in Dallas County (Sec.
 1-31 25.0593, Government Code) . . . \$3;

1-32 (B) in a county criminal court of appeals in
 1-33 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

1-34 (C) in a county court at law in McLennan County
 1-35 (Sec. 25.1572, Government Code) . . . \$3; and

1-36 (D) in a county criminal court in Tarrant County
 1-37 (Sec. 25.2223, Government Code) . . . \$3;

1-38 (2) a court reporter service fee if the courts have
 1-39 official court reporters (Sec. 51.601, Government Code) . . . \$15
 1-40 or, in specified counties, \$30;

1-41 (3) a speedy trial filing fee in El Paso County (Sec.
 1-42 54.745, Government Code) . . . \$100;

1-43 (4) costs for use of magistrate in Brazos County (Sec.
 1-44 54.1116, Government Code) . . . not to exceed \$50;

1-45 (5) the costs of a criminal magistrate if the court
 1-46 determines that the nonprevailing party is able to defray the
 1-47 costs:

1-48 (A) in Bexar County (Sec. 54.913, Government
 1-49 Code) . . . magistrate's fees;

1-50 (B) in Dallas County (Sec. 54.313, Government
 1-51 Code) . . . magistrate's fees;

1-52 (C) in Lubbock County (Sec. 54.883, Government
 1-53 Code) . . . magistrate's fees;

1-54 (D) in Tarrant County (Sec. 54.663, Government
 1-55 Code) . . . magistrate's fees;

1-56 (E) in Travis County (Sec. 54.983, Government
 1-57 Code) . . . magistrate's fees; and

1-58 (F) in Williamson County (Sec. 54.958,
 1-59 Government Code) . . . expense of the magistrate;

1-60 (6) an administrative fee for participation in certain

2-1 community supervision programs (Sec. 76.015, Government Code)
 2-2 . . . not less than \$25 and not more than \$60 per month; ~~and~~
 2-3 (7) fee paid on filing a petition for an order of
 2-4 nondisclosure of criminal history record information in certain
 2-5 deferred adjudication cases (Sec. 411.081(d) ~~[411.081]~~, Government
 2-6 Code) . . . \$28; and
 2-7 (8) fee paid on filing a petition for an order of
 2-8 nondisclosure of criminal history record information in certain
 2-9 fine-only misdemeanor cases (Sec. 411.081(d-1), Government Code)
 2-10 . . . \$28.

2-11 SECTION 2. Section 411.081, Government Code, is amended by
 2-12 adding Subsections (d-1), (e-1), and (h-1) and amending Subsection
 2-13 (i) to read as follows:

2-14 (d-1) Notwithstanding any other provision of this chapter,
 2-15 a person who is convicted of and has satisfied the judgment for or
 2-16 who has received a dismissal after deferral of disposition for a
 2-17 fine-only misdemeanor, other than a traffic offense or an offense
 2-18 under a municipal ordinance or county order, may petition the court
 2-19 that convicted or granted a dismissal to the person for an order of
 2-20 nondisclosure under this subsection. Subject to Subsection (e-1),
 2-21 a person may petition the court under this subsection regardless of
 2-22 whether the person has been previously convicted of or granted a
 2-23 dismissal for a fine-only misdemeanor offense. After notice to the
 2-24 state and a hearing on whether the person is entitled to file the
 2-25 petition and issuance of the order is in the best interest of
 2-26 justice, the court shall issue an order prohibiting criminal
 2-27 justice agencies from disclosing to the public criminal history
 2-28 record information related to the fine-only misdemeanor offense
 2-29 that is the subject of the petition. As a condition of granting the
 2-30 petition under this subsection for a person convicted of the
 2-31 offense, a court may require the defendant to perform community
 2-32 service, pay a fee, or both perform the community service and pay
 2-33 the fee as if the defendant had been put on probation pending
 2-34 deferred disposition under Article 45.051, Code of Criminal
 2-35 Procedure. A criminal justice agency may disclose criminal history
 2-36 record information that is the subject of an order of nondisclosure
 2-37 under this subsection only to other criminal justice agencies, for
 2-38 criminal justice or regulatory licensing purposes, an agency or
 2-39 entity listed in Subsection (i), or the person who is the subject of
 2-40 the order. A person may petition the court for an order of
 2-41 nondisclosure under this subsection on payment of a \$28 fee to the
 2-42 clerk of the court in addition to any other fee that generally
 2-43 applies to the filing of a civil petition. The payment may be made
 2-44 only on or after the first anniversary of the conviction or
 2-45 dismissal, as applicable.

2-46 (e-1) A person is not entitled to petition the court under
 2-47 Subsection (d-1) if the person has been previously convicted of or
 2-48 placed on deferred adjudication for:

2-49 (1) an offense requiring registration as a sex
 2-50 offender under Chapter 62, Code of Criminal Procedure;

2-51 (2) an offense under Section 20.04, Penal Code,
 2-52 regardless of whether the offense is a reportable conviction or
 2-53 adjudication for purposes of Chapter 62, Code of Criminal
 2-54 Procedure;

2-55 (3) an offense under Section 19.02, 19.03, 22.04,
 2-56 22.041, 25.07, or 42.072, Penal Code; or

2-57 (4) any other offense involving family violence, as
 2-58 defined by Section 71.004, Family Code.

2-59 (h-1) The clerk of a court that collects a fee under
 2-60 Subsection (d-1) shall deposit the fee to the credit of the general
 2-61 fund of the municipality or county, as applicable.

2-62 (i) A criminal justice agency may disclose criminal history
 2-63 record information that is the subject of an order of nondisclosure
 2-64 under this section [Subsection (d)] to the following noncriminal
 2-65 justice agencies or entities only:

2-66 (1) the State Board for Educator Certification;

2-67 (2) a school district, charter school, private school,
 2-68 regional education service center, commercial transportation
 2-69 company, or education shared service arrangement;

3-1 (3) the Texas Medical Board;
 3-2 (4) the Texas School for the Blind and Visually
 3-3 Impaired;
 3-4 (5) the Board of Law Examiners;
 3-5 (6) the State Bar of Texas;
 3-6 (7) a district court regarding a petition for name
 3-7 change under Subchapter B, Chapter 45, Family Code;
 3-8 (8) the Texas School for the Deaf;
 3-9 (9) the Department of Family and Protective Services;
 3-10 (10) the Texas Juvenile Justice Department [~~Youth~~
 3-11 ~~Commission~~];
 3-12 (11) the Department of Assistive and Rehabilitative
 3-13 Services;
 3-14 (12) the Department of State Health Services, a local
 3-15 mental health service, a local mental retardation authority, or a
 3-16 community center providing services to persons with mental illness
 3-17 or retardation;
 3-18 (13) the Texas Private Security Board;
 3-19 (14) a municipal or volunteer fire department;
 3-20 (15) the Texas Board of Nursing;
 3-21 (16) a safe house providing shelter to children in
 3-22 harmful situations;
 3-23 (17) a public or nonprofit hospital or hospital
 3-24 district;
 3-25 (18) [~~the Texas Juvenile Probation Commission,~~
 3-26 [~~19~~] the securities commissioner, the banking
 3-27 commissioner, the savings and mortgage lending commissioner, the
 3-28 consumer credit commissioner, or the credit union commissioner;
 3-29 (19) [~~20~~] the Texas State Board of Public
 3-30 Accountancy;
 3-31 (20) [~~21~~] the Texas Department of Licensing and
 3-32 Regulation;
 3-33 (21) [~~22~~] the Health and Human Services Commission;
 3-34 (22) [~~23~~] the Department of Aging and Disability
 3-35 Services;
 3-36 (23) [~~24~~] the Texas Education Agency;
 3-37 (24) [~~25~~] the Guardianship Certification Board;
 3-38 (25) [~~26~~] a county clerk's office in relation to a
 3-39 proceeding for the appointment of a guardian under Chapter XIII,
 3-40 Texas Probate Code;
 3-41 (26) [~~27~~] the Department of Information Resources
 3-42 but only regarding an employee, applicant for employment,
 3-43 contractor, subcontractor, intern, or volunteer who provides
 3-44 network security services under Chapter 2059 to:
 3-45 (A) the Department of Information Resources; or
 3-46 (B) a contractor or subcontractor of the
 3-47 Department of Information Resources;
 3-48 (27) [~~28~~] the Court Reporters Certification Board;
 3-49 (28) [~~29~~] the Texas Department of Insurance; and
 3-50 (29) [~~30~~] the Teacher Retirement System of Texas.
 3-51 SECTION 3. Subsection (a), Section 411.0851, Government
 3-52 Code, is amended to read as follows:
 3-53 (a) A private entity that compiles and disseminates for
 3-54 compensation criminal history record information shall destroy and
 3-55 may not disseminate any information in the possession of the entity
 3-56 with respect to which the entity has received notice that:
 3-57 (1) an order of expunction has been issued under
 3-58 Article 55.02, Code of Criminal Procedure; or
 3-59 (2) an order of nondisclosure has been issued under
 3-60 Section 411.081 [~~411.081(d)~~].
 3-61 SECTION 4. The heading to Section 552.142, Government Code,
 3-62 is amended to read as follows:
 3-63 Sec. 552.142. EXCEPTION: CONFIDENTIALITY OF RECORDS OF
 3-64 CERTAIN CRIMINAL HISTORY INFORMATION [~~DEFERRED ADJUDICATIONS~~].
 3-65 SECTION 5. Subsection (a), Section 552.142, Government
 3-66 Code, is amended to read as follows:
 3-67 (a) Information is excepted from the requirements of
 3-68 Section 552.021 if an order of nondisclosure with respect to the
 3-69 information has been issued under Section 411.081 [~~411.081(d)~~].

4-1 SECTION 6. Subsection (a), Section 552.1425, Government
4-2 Code, is amended to read as follows:

4-3 (a) A private entity that compiles and disseminates for
4-4 compensation criminal history record information may not compile or
4-5 disseminate information with respect to which the entity has
4-6 received notice that:

4-7 (1) an order of expunction has been issued under
4-8 Article 55.02, Code of Criminal Procedure; or

4-9 (2) an order of nondisclosure has been issued under
4-10 Section 411.081 [~~411.081(a)~~].

4-11 SECTION 7. The change in law made by this Act applies to a
4-12 petition for an order of nondisclosure that is filed on or after the
4-13 effective date of this Act, regardless of whether the misdemeanor
4-14 that is the subject of the petition occurred before, on, or after
4-15 the effective date of this Act.

4-16 SECTION 8. This Act takes effect September 1, 2013.

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