

Amend **HB 3579** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 109.005(a), Business & Commerce Code, as added by Chapter 1200 (**SB 1289**), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

(a) A business entity may not publish any criminal record information in the business entity's possession with respect to which the business entity has knowledge or has received notice that:

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

(2) an order of nondisclosure has been issued under Section 411.081 [~~411.081(d)~~], Government Code.

SECTION _____. 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 rights waiver motion filing fee in El Paso County (Sec. 54.745, Government Code) . . . \$100;

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

costs:

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

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

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

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

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

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

(6) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain deferred adjudication cases (Sec. 411.081(f-1) [~~411.081~~], Government Code) . . . \$28; and

(7) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain fine-only misdemeanor cases (Sec. 411.081(f-1), Government Code) . . . \$28.

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

(d-1) Notwithstanding any other provision of this chapter and subject to Subsection (e-1), a person who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for a fine-only misdemeanor, other than a traffic offense or an offense under a municipal ordinance or county order, may petition the court that convicted or granted a dismissal to the person for an order of nondisclosure under this subsection. After notice to the state, the court shall hold a hearing on whether the person is entitled to file the petition and whether issuance of the order is in the best interest of justice. In determining whether granting the order is in the best interest of justice, the court may consider any factors the court considers relevant. If the

court determines that granting 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 fine-only misdemeanor offense that is the subject of the petition. As a condition of granting the petition under this subsection for a person convicted of the offense, a court may require the defendant to perform community service, pay a fee, or both perform the community service and pay the fee as if the defendant had been placed on probation pending deferred disposition under Article 45.051, Code of Criminal Procedure. A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under this subsection 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. A person may petition the court for an order of nondisclosure under this subsection only on or after the first anniversary of the conviction or dismissal, as applicable.

(d-2) A person eligible for an order of nondisclosure under Subsection (d-1) who is also eligible for an order of expunction under Chapter 55, Code of Criminal Procedure, for that offense may petition under either provision or both, as appropriate.

(e-1) A person is not entitled to petition the court under Subsection (d-1) if the person has been previously convicted of or placed on deferred adjudication for any offense other than an offense under the Transportation Code punishable by fine only, regardless of whether that offense is subject to an order of nondisclosure of criminal history record information granted under this section or any other law.

(f) For purposes of Subsections [~~Subsection~~] (d), (e), and (e-1), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the

supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) or (d-1) may file the petition in person, electronically, or by mail. The petition must be accompanied by 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 Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for 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 hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that:

(A) the defendant is entitled to file the petition; and

(B) the order is in the best interest of justice.

(h) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d) [~~(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.

(h-1) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d-1) shall deposit the fee to the credit of the general fund of the municipality or county, as applicable.

(h-2) 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;

(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.

SECTION _____. Section 411.081(i), Government Code, as amended by Chapters 42 (SB 966), 266 (HB 729), and 583 (SB 869), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under this section [~~Subsection (d)~~] 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 Medical Board;

(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 Juvenile Justice Department;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local intellectual and developmental disability [~~mental retardation~~] authority, or a community center providing services to persons with mental illness or intellectual or developmental disabilities [~~retardation~~];

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Texas Board of Nursing;

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

(17) a public or nonprofit hospital or hospital district, or a facility as defined by Section 250.001, Health and Safety Code;

(18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;

(19) the Texas State Board of Public Accountancy;

(20) the Texas Department of Licensing and Regulation;

(21) the Health and Human Services Commission;

(22) the Department of Aging and Disability Services;

(23) the Texas Education Agency;

(24) the Judicial Branch Certification Commission;

(25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Title 3, Estates Code [~~Chapter XIII, Texas Probate Code~~];

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

(A) the Department of Information Resources; or

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

(27) the Texas Department of Insurance;

(28) the Teacher Retirement System of Texas; and

(29) [~~(30)~~] the Texas State Board of Pharmacy.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION _____. Section 53.021(e), Occupations Code, is amended to read as follows:

(e) Subsection (c) does not apply if the person is an

applicant for or the holder of a license that authorizes the person to provide:

(1) law enforcement or public health, education, or safety services; or

(2) financial services in an industry regulated by a person listed in Section 411.081(i)(18) [~~411.081(i)(19)~~], Government Code.

SECTION _____. This Act applies to a petition for an order of nondisclosure that is filed on or after the effective date of this Act, regardless of whether the misdemeanor that is the subject of the petition occurred before, on, or after the effective date of this Act.