

By: Wu

H.B. No. 329

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 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(d) [~~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(d-1), Government Code) . . . \$28.

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

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

1 nondisclosure under this subsection on payment of a \$28 fee to the
2 clerk of the court in addition to any other fee that generally
3 applies to the filing of a civil petition. The payment may be made
4 only on or after the first anniversary of the conviction or
5 dismissal, as applicable.

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

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

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

15 (3) an offense under Section 19.02, 19.03, 22.04,
16 22.041, 25.07, 25.072, or 42.072, Penal Code; or

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

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

22 SECTION 3. Section 411.081(i), Government Code, as amended
23 by Chapters 42 (S.B. 966), 266 (H.B. 729), and 583 (S.B. 869), Acts
24 of the 83rd Legislature, Regular Session, 2013, is reenacted and
25 amended to read as follows:

26 (i) A criminal justice agency may disclose criminal history
27 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 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 Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;

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

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

7 (19) the Texas State Board of Public Accountancy;

8 (20) the Texas Department of Licensing and Regulation;

9 (21) the Health and Human Services Commission;

10 (22) the Department of Aging and Disability Services;

11 (23) the Texas Education Agency;

12 (24) the Judicial Branch Certification Commission;

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

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

20 (A) the Department of Information Resources; or

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

23 (27) the Texas Department of Insurance;

24 (28) the Teacher Retirement System of Texas; and

25 (29) [~~(30)~~] the Texas State Board of Pharmacy.

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

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

5 (1) an order of expunction has been issued under
6 Article [55.02](#), Code of Criminal Procedure; or

7 (2) an order of nondisclosure has been issued under
8 Section [411.081](#) [~~411.081(a)~~].

9 SECTION 5. The heading to Section [552.142](#), Government Code,
10 is amended to read as follows:

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

13 SECTION 6. Section [552.142](#)(a), Government Code, is amended
14 to read as follows:

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

18 SECTION 7. Section [552.1425](#)(a), Government Code, is amended
19 to read as follows:

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

24 (1) an order of expunction has been issued under
25 Article [55.02](#), Code of Criminal Procedure; or

26 (2) an order of nondisclosure has been issued under
27 Section [411.081](#) [~~411.081(a)~~].

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

6 SECTION 9. This Act takes effect September 1, 2015.