

1 AN ACT

2 relating to the eligibility of certain victims of trafficking of  
3 persons for an order of nondisclosure; authorizing a fee.

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

5 ARTICLE 1

6 SECTION 1.01. Section 109.005(a), Business & Commerce Code,  
7 as added by Chapter 1200 (S.B. No. 1289), Acts of the 83rd  
8 Legislature, Regular Session, 2013, is amended to read as follows:

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

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

15 (2) an order of nondisclosure has been issued under  
16 Section 411.081(d) or (d-1), Government Code.

17 SECTION 1.02. Section 411.081, Government Code, is amended  
18 by adding Subsection (d-1) and amending Subsections (e), (f),  
19 (f-1), and (h) to read as follows:

20 (d-1)(1) This subsection applies only to a person who on  
21 conviction for an offense under Section 43.02, Penal Code, is  
22 placed on community supervision under Article 42.12, Code of  
23 Criminal Procedure, and with respect to whom the conviction is  
24 subsequently set aside by the court under Section 20(a) of that

1 article.

2 (2) Notwithstanding any other provision of this  
3 subchapter, if a person to whom this subsection applies satisfies  
4 the requirements of Subsection (e), the person may petition the  
5 court that placed the person on community supervision for an order  
6 of nondisclosure on the grounds that the person committed the  
7 offense solely as a victim of trafficking of persons. After notice  
8 to the state, an opportunity for a hearing, and a determination by  
9 the court that the person committed the offense solely as a victim  
10 of trafficking of persons and that issuance of the order is in the  
11 best interest of justice, the court shall issue an order  
12 prohibiting criminal justice agencies from disclosing to the public  
13 criminal history record information related to the offense under  
14 Section 43.02, Penal Code, giving rise to the community  
15 supervision. A criminal justice agency may disclose criminal  
16 history record information that is the subject of the order only to  
17 other criminal justice agencies for criminal justice purposes, an  
18 agency or entity listed in Subsection (i), or the person who is the  
19 subject of the order. A person may petition the court that placed  
20 the person on community supervision for an order of nondisclosure  
21 only after the person's conviction under Section 43.02, Penal Code,  
22 is set aside.

23 (e) A person is entitled to petition the court under  
24 Subsection (d) or (d-1) only if during the period of the community  
25 supervision, including deferred adjudication community  
26 supervision, for which the order of nondisclosure is requested and,  
27 for a petition under Subsection (d), only during the applicable

1 period described by Subdivision (1) [~~Subsection (d)(1)~~], (2), or  
2 (3) of that subsection, as appropriate, the person is not convicted  
3 of or placed on deferred adjudication community supervision under  
4 Section 5, Article 42.12, Code of Criminal Procedure, for any  
5 offense other than an offense under the Transportation Code  
6 punishable by fine only. A person is not entitled to petition the  
7 court under Subsection (d) or (d-1) if the person was placed on  
8 community supervision, including [~~the~~] deferred adjudication  
9 community supervision, for, or has been previously convicted of or  
10 placed on any other deferred adjudication for:

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

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

17 (3) an offense under Section 19.02, 19.03, 22.04,  
18 22.041, 25.07, 25.072, or 42.072, Penal Code; or

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

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

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

27 (2) the judge deferred further proceedings without

1 entering an adjudication of guilt and placed the person under the  
2 supervision of the court or an officer under the supervision of the  
3 court; and

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

6 (f-1) A person who petitions the court for an order of  
7 nondisclosure under Subsection (d) or (d-1) may file the petition  
8 in person, electronically, or by mail. The petition must be  
9 accompanied by payment of a \$28 fee to the clerk of the court in  
10 addition to any other fee that generally applies to the filing of a  
11 civil petition. The Office of Court Administration of the Texas  
12 Judicial System shall prescribe a form for the filing of a petition  
13 electronically or by mail. The form must provide for the petition  
14 to be accompanied by the required fees and any other supporting  
15 material determined necessary by the office of court  
16 administration, including evidence that the person is entitled to  
17 file the petition. The office of court administration shall make  
18 available on its Internet website the electronic application and  
19 printable application form. Each county or district clerk's office  
20 that maintains an Internet website shall include on that website a  
21 link to the electronic application and printable application form  
22 available on the office of court administration's Internet website.  
23 On receipt of a petition under this subsection, the court shall  
24 provide notice to the state and an opportunity for a hearing on  
25 whether the person is entitled to file the petition and issuance of  
26 the order is in the best interest of justice. The court shall hold a  
27 hearing before determining whether to issue an order of

1 nondisclosure, except that a hearing is not required if:

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

5 (2) the court determines that:

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

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

9 (h) The clerk of a court that collects a fee paid under  
10 Subsection (f-1) [~~(d)~~] 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 SECTION 1.03. Section [411.081](#)(i), Government Code, as

1 amended by Chapters 42 (S.B. 966), 266 (H.B. 729), and 583 (S.B.  
2 869), Acts of the 83rd Legislature, Regular Session, 2013, is  
3 reenacted and amended to read as follows:

4 (i) A criminal justice agency may disclose criminal history  
5 record information that is the subject of an order of nondisclosure  
6 under Subsection (d) or (d-1) to the following noncriminal justice  
7 agencies or entities only:

8 (1) the State Board for Educator Certification;

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

12 (3) the Texas Medical Board;

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

15 (5) the Board of Law Examiners;

16 (6) the State Bar of Texas;

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

19 (8) the Texas School for the Deaf;

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

21 (10) the Texas Juvenile Justice Department;

22 (11) the Department of Assistive and Rehabilitative  
23 Services;

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

- 1           (13) the Texas Private Security Board;
- 2           (14) a municipal or volunteer fire department;
- 3           (15) the Texas Board of Nursing;
- 4           (16) a safe house providing shelter to children in  
5 harmful situations;
- 6           (17) a public or nonprofit hospital or hospital  
7 district, or a facility as defined by Section 250.001, Health and  
8 Safety Code;
- 9           (18) the securities commissioner, the banking  
10 commissioner, the savings and mortgage lending commissioner, the  
11 consumer credit commissioner, or the credit union commissioner;
- 12           (19) the Texas State Board of Public Accountancy;
- 13           (20) the Texas Department of Licensing and Regulation;
- 14           (21) the Health and Human Services Commission;
- 15           (22) the Department of Aging and Disability Services;
- 16           (23) the Texas Education Agency;
- 17           (24) the Judicial Branch Certification Commission;
- 18           (25) a county clerk's office in relation to a  
19 proceeding for the appointment of a guardian under Title 3, Estates  
20 Code [~~Chapter XIII, Texas Probate Code~~];
- 21           (26) the Department of Information Resources but only  
22 regarding an employee, applicant for employment, contractor,  
23 subcontractor, intern, or volunteer who provides network security  
24 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;

- (27) the Texas Department of Insurance;
- (28) the Teacher Retirement System of Texas; and
- (29) [~~(30)~~] the Texas State Board of Pharmacy.

SECTION 1.04. 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(d) or (d-1).

SECTION 1.05. 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~~].

(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(d) or (d-1).

(b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the criminal proceeding [~~arrest and prosecution~~] to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

SECTION 1.06. Section 552.1425(a), Government Code, is



1 amended to read as follows:

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

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

8 (2) an order of nondisclosure has been issued under  
9 Section 411.081(d) or (d-1).

10 SECTION 1.07. Section 53.021(e), Occupations Code, is  
11 amended to read as follows:

12 (e) Subsection (c) does not apply if the person is an  
13 applicant for or the holder of a license that authorizes the person  
14 to provide:

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

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

20 SECTION 1.08. This article takes effect only if S.B. 1902,  
21 Acts of the 84th Legislature, Regular Session, 2015, does not  
22 become law. If that bill becomes law, this article has no effect.

23 ARTICLE 2

24 SECTION 2.01. Subchapter E-1, Chapter 411, Government Code,  
25 is amended by adding Section 411.0728 to read as follows:

26 Sec. 411.0728. PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING  
27 OF PERSONS. (a) This section applies only to a person who on

1 conviction for an offense under Section 43.02, Penal Code, is  
2 placed on community supervision under Article 42.12, Code of  
3 Criminal Procedure, and with respect to whom the conviction is  
4 subsequently set aside by the court under Section 20(a) of that  
5 article.

6 (b) Notwithstanding any other provision of this subchapter  
7 or Subchapter F, a person described by Subsection (a) who satisfies  
8 the requirements of Section 411.074 may petition the court that  
9 placed the person on community supervision for an order of  
10 nondisclosure of criminal history record information under this  
11 section on the grounds that the person committed the offense solely  
12 as a victim of trafficking of persons.

13 (c) After notice to the state, an opportunity for a hearing,  
14 and a determination by the court that the person committed the  
15 offense solely as a victim of trafficking of persons and that  
16 issuance of the order is in the best interest of justice, the court  
17 shall issue an order prohibiting criminal justice agencies from  
18 disclosing to the public criminal history record information  
19 related to the offense under Section 43.02, Penal Code, giving rise  
20 to the community supervision.

21 (d) A person may petition the court that placed the person  
22 on community supervision for an order of nondisclosure of criminal  
23 history record information under this section only after the  
24 person's conviction under Section 43.02, Penal Code, is set aside.

25 SECTION 2.02. Section 552.142(b), Government Code, is  
26 amended to read as follows:

27 (b) A person who is the subject of information that is

1 excepted from the requirements of Section 552.021 under this  
2 section may deny the occurrence of the criminal proceeding [~~arrest~~  
3 ~~and prosecution~~] to which the information relates and the exception  
4 of the information under this section, unless the information is  
5 being used against the person in a subsequent criminal proceeding.

6 SECTION 2.03. This article takes effect only if S.B. 1902,  
7 Acts of the 84th Legislature, Regular Session, 2015, becomes law.  
8 If that bill does not become law, this article has no effect.

9 ARTICLE 3

10 SECTION 3.01. The change in law made by this Act applies to  
11 a person whose conviction for an offense under Section 43.02, Penal  
12 Code, is set aside under Section 20(a), Article 42.12, Code of  
13 Criminal Procedure, on or after the effective date of this Act,  
14 regardless of when the person committed the offense for which the  
15 person was convicted.

16 SECTION 3.02. This Act takes effect September 1, 2015.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2286 was passed by the House on May 15, 2015, by the following vote: Yeas 129, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2286 on May 29, 2015, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2286 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor