

AN ACT

relating to certain criminal history record information;
authorizing a fee.

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

ARTICLE 1

SECTION 1.01. Section 15, Article 42.12, Code of Criminal Procedure, is amended by adding Subsections (l), (m), and (n) to read as follows:

(l) On written motion of a defendant after completion of two-thirds of the original community supervision period for a state jail felony with respect to which written consent was obtained under Section 12.44(c), Penal Code, the judge may review the defendant's record and consider whether to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony. On disposition of the community supervision in a manner provided by Section 20, the judge, on discharge of the defendant, may amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony, subject to Subsection (m), if:

(1) the offense for which the defendant was placed on community supervision was not an offense:

(A) under Section 30.02, Section 30.04, Section 39.04(a)(2), Section 49.045, or Title 5, Penal Code;

(B) under Article 62.102; or

1 (C) involving family violence, as defined by
2 Section 71.004, Family Code;

3 (2) the defendant has fulfilled to the judge's
4 satisfaction all the conditions of community supervision,
5 including the payment of all required restitution, and is not
6 delinquent on the payment of any fines, costs, and fees that the
7 defendant has the ability to pay;

8 (3) the defendant files with the written motion a
9 statement that:

10 (A) contains a summary of the defendant's
11 performance during community supervision, including compliance
12 with the conditions of community supervision; and

13 (B) asserts that the defendant meets the
14 conditions for an amendment of the record of conviction under this
15 subsection;

16 (4) the defendant provides a copy of the motion and
17 statement to the attorney representing the state; and

18 (5) at the hearing held on the motion, the judge finds
19 that an amendment of the record of conviction is in the best
20 interest of justice.

21 (m) A judge who amends a record of conviction under
22 Subsection (1) may not modify the name of the state jail felony
23 offense for which the judge placed the defendant on community
24 supervision. A defendant whose record of conviction is amended
25 under Subsection (1) is not considered to have been convicted of a
26 felony with respect to the modified offense.

27 (n) A record of conviction that is amended under Subsection

1 (1) supersedes and takes the place of the record of conviction as it
2 existed on the original date of conviction. A judge retains
3 jurisdiction for the purposes of Subsection (1) only until the
4 expiration of the term of community supervision.

5 SECTION 1.02. Article 55.01, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 55.01. RIGHT TO EXPUNCTION. (a) A person who has been
8 placed under a custodial or noncustodial arrest for commission of
9 either a felony or misdemeanor is entitled to have all records and
10 files relating to the offense for which the person was arrested [~~the~~
11 ~~arrest~~] expunged if:

12 (1) the person is tried for the offense for which the
13 person was arrested and is:

14 (A) acquitted by the trial court, except as
15 provided by Subsection (c); or

16 (B) convicted and subsequently:

17 (i) pardoned for a reason other than that
18 described by Subparagraph (ii); or

19 (ii) pardoned or otherwise granted relief
20 on the basis of actual innocence with respect to that offense, if
21 the applicable pardon or court order clearly indicates on its face
22 that the pardon or order was granted or rendered on the basis of the
23 person's actual innocence; or

24 (2) the person has been released and the charge, if
25 any, for the offense for which the expunction is sought has been
26 dismissed or has not resulted in a final conviction for that
27 offense, the charge [~~and~~] is no longer pending, and there was no

1 court-ordered community supervision under Article 42.12 for that
2 [~~the~~] offense[~~r~~] unless the offense is a Class C misdemeanor,
3 provided that:

4 (A) regardless of whether any statute of
5 limitations exists for the offense and whether any limitations
6 period for the offense has expired, an indictment or information
7 charging the person with the commission of the [~~a misdemeanor~~]
8 offense [~~based on the person's arrest or charging the person with~~
9 ~~the commission of any felony offense arising out of the same~~
10 ~~transaction for which the person was arrested~~]:

11 (i) has not been presented against the
12 person at any time following the person's arrest, and:

13 (a) at least 180 days have elapsed
14 from the date of arrest if the offense [~~arrest~~] for which the
15 expunction was sought was [~~for an offense~~] punishable as a Class C
16 misdemeanor and if there was no felony charge arising out of the
17 same transaction for which the person was arrested;

18 (b) at least one year has elapsed from
19 the date of arrest if the offense [~~arrest~~] for which the expunction
20 was sought was [~~for an offense~~] punishable as a Class B or A
21 misdemeanor and if there was no felony charge arising out of the
22 same transaction for which the person was arrested;

23 (c) at least three years have elapsed
24 from the date of arrest if the offense [~~arrest~~] for which the
25 expunction was sought was [~~for an offense~~] punishable as a felony or
26 if there was a felony charge arising out of the same transaction for
27 which the person was arrested; or

1 (d) the attorney representing the
2 state certifies that the applicable [~~arrest~~] records and files are
3 not needed for use in any criminal investigation or prosecution,
4 including an investigation or prosecution of another person; or

5 (ii) if presented at any time following the
6 person's arrest, was dismissed or quashed, and the court finds that
7 the indictment or information was dismissed or quashed because the
8 person completed a pretrial intervention program authorized under
9 Section 76.011, Government Code, because the presentment had been
10 made because of mistake, false information, or other similar reason
11 indicating absence of probable cause at the time of the dismissal to
12 believe the person committed the offense, or because the indictment
13 or information was void; or

14 (B) prosecution of the person for the offense for
15 which the person was arrested is no longer possible because the
16 limitations period has expired.

17 (a-1) Notwithstanding any other provision of this article,
18 a person may not expunge offense records and files if the applicable
19 [~~relating to an~~] arrest occurred [~~that occurs~~] pursuant to a
20 warrant issued under Section 21, Article 42.12.

21 (a-2) Notwithstanding any other provision of this article,
22 a person who intentionally or knowingly absconds from the
23 jurisdiction after being released under Chapter 17 following an
24 arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or
25 (c) or Subsection (a)(2)(B) for an expunction of the records and
26 files relating to that arrest and to the proceedings conducted
27 under Chapter 17.

1 (b) Except as provided by Subsection (c), a district court
2 may expunge all records and files relating to the offense with
3 respect to [~~arrest of~~] a person who has been arrested for commission
4 of a felony or misdemeanor under the procedure established under
5 Article 55.02 if:

6 (1) the person is:

7 (A) tried for the offense [~~for which the person~~
8 ~~was arrested~~];

9 (B) convicted of the offense; and

10 (C) acquitted by the court of criminal appeals
11 or, if the period for granting a petition for discretionary review
12 has expired, by a court of appeals; or

13 (2) an office of the attorney representing the state
14 authorized by law to prosecute the offense for which the person was
15 arrested recommends the expunction to the appropriate district
16 court before the person is tried for the offense, regardless of
17 whether an indictment or information has been presented against the
18 person in relation to the offense.

19 (c) A court may not order the expunction of records and
20 files relating to [~~an arrest for~~] an offense for which a person is
21 subsequently acquitted, whether by the trial court, a court of
22 appeals, or the court of criminal appeals, if the offense for which
23 the person was acquitted arose out of a criminal episode, as defined
24 by Section 3.01, Penal Code, and the person was convicted of or
25 remains subject to prosecution for at least one other offense
26 occurring during the criminal episode.

27 (d) A person is entitled to have expunged any information

1 that identifies the person, including the person's name, address,
2 date of birth, driver's license number, and social security number,
3 contained in records and files relating to another person's ~~[the]~~
4 arrest or to any ensuing criminal proceedings based on that arrest
5 ~~[of another person expunged]~~ if:

6 (1) the information identifying the person asserting
7 the entitlement to expunction was falsely given by the person
8 arrested as the arrested person's identifying information without
9 the consent of the person asserting the entitlement; and

10 (2) the only reason for the information identifying
11 the person asserting the entitlement being contained in the offense
12 ~~[arrest]~~ records and files of the person arrested is that the
13 information was falsely given by the person arrested as the
14 arrested person's identifying information.

15 SECTION 1.03. Section 2a(b), Article 55.02, Code of
16 Criminal Procedure, is amended to read as follows:

17 (b) The application must be verified, include authenticated
18 fingerprint records of the applicant, and include the following or
19 an explanation for why one or more of the following is not included:

20 (1) the applicant's full name, sex, race, date of
21 birth, driver's license number, social security number, and address
22 at the time the person who falsely identified himself or herself as
23 the applicant was arrested;

24 (2) the following information regarding the arrest:

25 (A) the date of arrest;

26 (B) the offense charged against the person
27 arrested;

1 (C) the name of the county or municipality in
2 which the arrest occurred; and

3 (D) the name of the arresting agency; and

4 (3) a statement that:

5 (A) the applicant is not the person arrested and
6 for whom the applicable [~~arrest~~] records and files were created;
7 and

8 (B) the applicant did not give the person
9 arrested consent to falsely identify himself or herself as the
10 applicant.

11 SECTION 1.04. Section 3(a), Article 55.02, Code of Criminal
12 Procedure, is amended to read as follows:

13 (a) In an order of expunction issued under this article, the
14 court shall require any state agency that sent information
15 concerning the offense [~~arrest~~] to a central federal depository to
16 request the depository to return all records and files subject to
17 the order of expunction. The person who is the subject of the
18 expunction order or an agency protesting the expunction may appeal
19 the court's decision in the same manner as in other civil cases.

20 SECTION 1.05. Section 4(a-1), Article 55.02, Code of
21 Criminal Procedure, is amended to read as follows:

22 (a-1) The court shall provide in its expunction order that
23 the applicable law enforcement agency and prosecuting attorney may
24 retain the offense [~~arrest~~] records and files of any person who
25 becomes entitled to an expunction of those records and files based
26 on the expiration of a period described by Article
27 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of

1 the prosecuting attorney as described by Article
2 55.01(a)(2)(A)(i)(d).

3 SECTION 1.06. Article 55.03, Code of Criminal Procedure, is
4 amended to read as follows:

5 Art. 55.03. EFFECT OF EXPUNCTION. When the order of
6 expunction is final:

7 (1) the release, maintenance, dissemination, or use of
8 the expunged records and files for any purpose is prohibited;

9 (2) except as provided in Subdivision (3) [~~of this~~
10 ~~article~~], the person arrested may deny:

11 (A) the occurrence of the arrest and any ensuing
12 criminal proceedings based on the arrest; and

13 (B) the existence of the expunction order; and

14 (3) the person arrested or any other person, when
15 questioned under oath in a criminal proceeding about an offense
16 [~~arrest~~] for which the records have been expunged, may state only
17 that the matter in question has been expunged.

18 SECTION 1.07. Section 1, Article 55.04, Code of Criminal
19 Procedure, is amended to read as follows:

20 Sec. 1. A person who, acquires knowledge of an arrest
21 while an officer or employee of the state or of any agency or other
22 entity of the state or any political subdivision of the state,
23 acquires knowledge of an arrest or of criminal proceedings based on
24 that arrest and who knows of an order expunging the records and
25 files relating to the applicable offense [~~that arrest~~] commits an
26 offense if he knowingly releases, disseminates, or otherwise uses
27 the records or files.

1 SECTION 1.08. Section 12.44, Penal Code, is amended by
2 adding Subsection (c) to read as follows:

3 (c) With the written consent of the prosecuting attorney
4 prior to sentencing, the court may amend the record of conviction to
5 reflect a conviction for a Class A misdemeanor in lieu of a state
6 jail felony as provided by Section 15(1), Article 42.12, Code of
7 Criminal Procedure.

8 ARTICLE 2

9 SECTION 2.01. Section 109.005(a), Business & Commerce Code,
10 as added by Chapter 1200 (S.B. No. 1289), Acts of the 83rd
11 Legislature, Regular Session, 2013, is amended to read as follows:

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

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

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

20 SECTION 2.02. Section 103.0211, Government Code, is amended
21 to read as follows:

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

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

1 (A) in a criminal court in Dallas County (Sec.
2 25.0593, Government Code) . . . \$3;

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

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

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

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

12 (3) a speedy trial rights waiver motion filing fee in
13 El Paso County (Sec. 54.745, Government Code) . . . \$100;

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

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

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

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

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

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

27 (5) an administrative fee for participation in certain

1 community supervision programs (Sec. 76.015, Government Code)
2 . . . not less than \$25 and not more than \$60 per month; ~~and~~

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

6 SECTION 2.03. Section 411.081, Government Code, is amended
7 by adding Subsections (d-1), (e-1), (h-1), and (h-2) and amending
8 Subsections (f), (f-1), and (h) to read as follows:

9 (d-1) Notwithstanding any other provision of this chapter
10 and subject to Subsection (e-1), a person who is convicted of and
11 has satisfied the judgment for or who has received a dismissal after
12 deferral of disposition for a fine-only misdemeanor, other than an
13 offense under the Transportation Code or an offense under a
14 municipal ordinance or county order, may petition the court that
15 convicted or granted a dismissal to the person for an order of
16 nondisclosure under this subsection. After notice to the state,
17 the court shall hold a hearing on whether the person is entitled to
18 file the petition and whether issuance of the order is in the best
19 interest of justice. In determining whether granting the order is
20 in the best interest of justice, the court may consider the person's
21 criminal history record information among any other factors the
22 court considers relevant. If the court determines that granting
23 the order is in the best interest of justice, the court shall issue
24 an order prohibiting criminal justice agencies from disclosing to
25 the public criminal history record information related to the
26 fine-only misdemeanor offense that is the subject of the petition.
27 As a condition of granting the petition under this subsection for a

1 person convicted of the offense, a court may require the defendant
2 to perform community service, pay a fee, or both perform the
3 community service and pay the fee as if the defendant had been
4 placed on probation pending deferred disposition under Article
5 45.051, Code of Criminal Procedure. A criminal justice agency may
6 disclose criminal history record information that is the subject of
7 an order of nondisclosure under this subsection only to other
8 criminal justice agencies for criminal justice or regulatory
9 licensing purposes, an agency or entity listed in Subsection (i),
10 or the person who is the subject of the order. A person may petition
11 the court for an order of nondisclosure under this subsection only
12 on or after the first anniversary of the conviction or dismissal, as
13 applicable.

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

21 (f) For purposes of Subsections [Subsection] (d), (e), and
22 (e-1), a person is considered to have been placed on deferred
23 adjudication 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) for a petition filed under Subsection (d) [~~(d)~~]
11 shall remit the fee to the comptroller not later than the last day
12 of the month following the end of the calendar quarter in which the
13 fee is collected, and the comptroller shall deposit the fee in the
14 general revenue fund.

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

19 (h-2) The Department of Public Safety shall submit a report
20 to the legislature not later than December 1 of each even-numbered
21 year that includes information on:

22 (1) the number of petitions for nondisclosure and
23 orders of nondisclosure received by the department in each of the
24 previous two years;

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

27 (3) the costs incurred by the department in taking

1 those actions; and

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

5 SECTION 2.04. Section 411.081(i), Government Code, as
6 amended by Chapters 42 (S.B. 966), 266 (H.B. 729), and 583 (S.B.
7 869), Acts of the 83rd Legislature, Regular Session, 2013, is
8 reenacted and amended to read as follows:

9 (i) A criminal justice agency may disclose criminal history
10 record information that is the subject of an order of nondisclosure
11 under this section [~~Subsection (d)~~] to the following noncriminal
12 justice agencies or entities only:

13 (1) the State Board for Educator Certification;

14 (2) a school district, charter school, private school,
15 regional education service center, commercial transportation
16 company, or education shared service arrangement;

17 (3) the Texas Medical Board;

18 (4) the Texas School for the Blind and Visually
19 Impaired;

20 (5) the Board of Law Examiners;

21 (6) the State Bar of Texas;

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

24 (8) the Texas School for the Deaf;

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

26 (10) the Texas Juvenile Justice Department;

27 (11) the Department of Assistive and Rehabilitative

1 Services;

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

7 (13) the Texas Private Security Board;

8 (14) a municipal or volunteer fire department;

9 (15) the Texas Board of Nursing;

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

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

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

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

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

20 (21) the Health and Human Services Commission;

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

22 (23) the Texas Education Agency;

23 (24) the Judicial Branch Certification Commission;

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

27 (26) the Department of Information Resources but only

1 regarding an employee, applicant for employment, contractor,
2 subcontractor, intern, or volunteer who provides network security
3 services under Chapter 2059 to:

- 4 (A) the Department of Information Resources; or
- 5 (B) a contractor or subcontractor of the
6 Department of Information Resources;
- 7 (27) the Texas Department of Insurance;
- 8 (28) the Teacher Retirement System of Texas; and
- 9 (29) [~~(30)~~] the Texas State Board of Pharmacy.

10 SECTION 2.05. Section [411.0851\(a\)](#), Government Code, is
11 amended to read as follows:

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

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

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

20 SECTION 2.06. The heading to Section [552.142](#), Government
21 Code, is amended to read as follows:

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

24 SECTION 2.07. Section [552.142\(a\)](#), Government Code, is
25 amended to read as follows:

26 (a) Information is excepted from the requirements of
27 Section [552.021](#) if an order of nondisclosure with respect to the

1 information has been issued under Section 411.081 [~~411.081(d)~~].

2 SECTION 2.08. Section 552.1425(a), Government Code, is
3 amended to read as follows:

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

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

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

12 SECTION 2.09. Section 53.021(e), Occupations Code, is
13 amended to read as follows:

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

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

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

22 SECTION 2.10. This article takes effect only if S.B. 1902,
23 Acts of the 84th Legislature, Regular Session, 2015, does not
24 become law. If that bill becomes law, this article has no effect.

25 ARTICLE 3

26 SECTION 3.01. Subchapter E-1, Chapter 411, Government Code,
27 as effective September 1, 2015, is amended by adding Section

1 411.0729 to read as follows:

2 Sec. 411.0729. PROCEDURE FOR CERTAIN FINE-ONLY
3 MISDEMEANORS. (a) This section applies only to a person who is
4 convicted of and has satisfied the judgment for or who has received
5 a dismissal after deferral of disposition for a fine-only
6 misdemeanor, other than an offense under the Transportation Code or
7 an offense under a municipal ordinance or county order.

8 (b) Notwithstanding any other provision of this chapter or
9 Subchapter F, a person described by Subsection (a) may petition the
10 court that convicted or granted a dismissal to the person for an
11 order of nondisclosure of criminal history record information under
12 this section if the person:

13 (1) satisfies the requirements of Section 411.074; and
14 (2) has never been previously convicted of or placed
15 on deferred adjudication community supervision for another offense
16 other than an offense under the Transportation Code that is
17 punishable by fine only, regardless of whether that offense is
18 subject to an order of nondisclosure of criminal history record
19 information granted under this subchapter or any other law.

20 (c) After notice to the state, the court shall hold a
21 hearing on whether the person is entitled to file the petition and
22 whether issuance of the order is in the best interest of justice.
23 In determining whether granting the order is in the best interest of
24 justice, the court may consider the person's criminal history
25 record information among any other factors the court considers
26 relevant. If the court determines that granting the order is in the
27 best interest of justice, the court shall issue an order

1 prohibiting criminal justice agencies from disclosing to the public
2 criminal history record information related to the fine-only
3 misdemeanor offense that is the subject of the petition. As a
4 condition of granting the petition under this section for a person
5 convicted of the offense, a court may require the person to perform
6 community service, pay a fee, or both perform the community service
7 and pay the fee as if the person had been placed on probation
8 pending deferred disposition under Article 45.051, Code of Criminal
9 Procedure.

10 (d) A person may petition the court for an order of
11 nondisclosure of criminal history record information under this
12 section only on or after the first anniversary of the conviction or
13 dismissal, as applicable.

14 SECTION 3.02. Section 411.077, Government Code, as
15 effective September 1, 2015, is amended by adding Subsection (a-1)
16 to read as follows:

17 (a-1) The clerk of a court that collects a fee paid under
18 Section 411.0745 for a petition filed under Section 411.0729 shall
19 deposit the fee to the credit of the general fund of the
20 municipality or county, as applicable.

21 SECTION 3.03. This article takes effect only if S.B. 1902,
22 Acts of the 84th Legislature, Regular Session, 2015, becomes law.
23 If that bill does not become law, this article has no effect.

24 ARTICLE 4

25 SECTION 4.01. This Act applies to an expunction of records
26 and files relating to any criminal offense that occurred before,
27 on, or after the effective date of this Act.

1 SECTION 4.02. This Act applies to a petition for an order of
2 nondisclosure that is filed on or after the effective date of this
3 Act, regardless of whether the misdemeanor that is the subject of
4 the petition occurred before, on, or after the effective date of
5 this Act.

6 SECTION 4.03. The changes in law made by this Act in
7 amending Section 15, Article 42.12, Code of Criminal Procedure, and
8 adding Section 12.44(c), Penal Code, apply only to a defendant who
9 is placed on community supervision for an offense committed on or
10 after the effective date of this Act. A defendant who is placed on
11 community supervision for an offense committed before the effective
12 date of this Act is governed by the law in effect on the date the
13 offense was committed, and the former law is continued in effect for
14 that purpose. For purposes of this section, an offense was
15 committed before the effective date of this Act if any element of
16 the offense occurred before that date.

17 SECTION 4.04. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 3579 was passed by the House on May 15, 2015, by the following vote: Yeas 124, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3579 on May 29, 2015, by the following vote: Yeas 142, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3579 was passed by the Senate, with amendments, on May 27, 2015, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor