

1-1 By: Alonzo, Collier (Senate Sponsor - Rodríguez) H.B. No. 3579
 1-2 (In the Senate - Received from the House May 18, 2015;
 1-3 May 20, 2015, read first time and referred to Committee on Criminal
 1-4 Justice; May 24, 2015, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
 1-6 May 24, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman			X	
1-10 Burton	X			
1-11 Creighton	X			
1-12 Hinojosa	X			
1-13 Menéndez	X			
1-14 Perry	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 3579 By: Whitmire

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

1-19 relating to certain criminal history record information;
 1-20 authorizing a fee.

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

1-22 SECTION 1. Article 55.01, Code of Criminal Procedure, is
 1-23 amended to read as follows:

1-24 Art. 55.01. RIGHT TO EXPUNCTION. (a) A person who has been
 1-25 placed under a custodial or noncustodial arrest for commission of
 1-26 either a felony or misdemeanor is entitled to have all records and
 1-27 files relating to the offense for which the person was arrested [~~the~~
 1-28 ~~arrest~~] expunged if:

1-29 (1) the person is tried for the offense for which the
 1-30 person was arrested and is:

1-31 (A) acquitted by the trial court, except as
 1-32 provided by Subsection (c); or

1-33 (B) convicted and subsequently:

1-34 (i) pardoned for a reason other than that
 1-35 described by Subparagraph (ii); or

1-36 (ii) pardoned or otherwise granted relief
 1-37 on the basis of actual innocence with respect to that offense, if
 1-38 the applicable pardon or court order clearly indicates on its face
 1-39 that the pardon or order was granted or rendered on the basis of the
 1-40 person's actual innocence; or

1-41 (2) the person has been released and the charge, if
 1-42 any, for the offense for which the expunction is sought has been
 1-43 dismissed or has not resulted in a final conviction for that
 1-44 offense, the charge [and] is no longer pending, and there was no
 1-45 court-ordered community supervision under Article 42.12 for that
 1-46 [the] offense[.] unless the offense is a Class C misdemeanor,
 1-47 provided that:

1-48 (A) regardless of whether any statute of
 1-49 limitations exists for the offense and whether any limitations
 1-50 period for the offense has expired, an indictment or information
 1-51 charging the person with the commission of the [a misdemeanor]
 1-52 offense [based on the person's arrest or charging the person with
 1-53 the commission of any felony offense arising out of the same
 1-54 transaction for which the person was arrested]:

1-55 (i) has not been presented against the
 1-56 person at any time following the person's arrest, and:

1-57 (a) at least 180 days have elapsed
 1-58 from the date of arrest if the offense [arrest] for which the
 1-59 expunction was sought was [~~for an offense~~] punishable as a Class C
 1-60 misdemeanor and if there was no felony charge arising out of the

2-1 same transaction for which the person was arrested;

2-2 (b) at least one year has elapsed from

2-3 the date of arrest if the offense [~~arrest~~] for which the expunction

2-4 was sought was [~~for an offense~~] punishable as a Class B or A

2-5 misdemeanor and if there was no felony charge arising out of the

2-6 same transaction for which the person was arrested;

2-7 (c) at least three years have elapsed

2-8 from the date of arrest if the offense [~~arrest~~] for which the

2-9 expunction was sought was [~~for an offense~~] punishable as a felony or

2-10 if there was a felony charge arising out of the same transaction for

2-11 which the person was arrested; or

2-12 (d) the attorney representing the

2-13 state certifies that the applicable [~~arrest~~] records and files are

2-14 not needed for use in any criminal investigation or prosecution,

2-15 including an investigation or prosecution of another person; or

2-16 (ii) if presented at any time following the

2-17 person's arrest, was dismissed or quashed, and the court finds that

2-18 the indictment or information was dismissed or quashed because the

2-19 person completed a pretrial intervention program authorized under

2-20 Section 76.011, Government Code, because the presentment had been

2-21 made because of mistake, false information, or other similar reason

2-22 indicating absence of probable cause at the time of the dismissal to

2-23 believe the person committed the offense, or because the indictment

2-24 or information was void; or

2-25 (B) prosecution of the person for the offense for

2-26 which the person was arrested is no longer possible because the

2-27 limitations period has expired.

2-28 (a-1) Notwithstanding any other provision of this article,

2-29 a person may not expunge offense records and files if the applicable

2-30 [~~relating to an~~] arrest occurred [~~that occurs~~] pursuant to a

2-31 warrant issued under Section 21, Article 42.12.

2-32 (a-2) Notwithstanding any other provision of this article,

2-33 a person who intentionally or knowingly absconds from the

2-34 jurisdiction after being released under Chapter 17 following an

2-35 arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or

2-36 (c) or Subsection (a)(2)(B) for an expunction of the records and

2-37 files relating to that arrest and to the proceedings conducted

2-38 under Chapter 17.

2-39 (b) Except as provided by Subsection (c), a district court

2-40 may expunge all records and files relating to the offense with

2-41 respect to [~~arrest of~~] a person who has been arrested for commission

2-42 of a felony or misdemeanor under the procedure established under

2-43 Article 55.02 if:

2-44 (1) the person is:

2-45 (A) tried for the offense [~~for which the person~~

2-46 ~~was arrested~~];

2-47 (B) convicted of the offense; and

2-48 (C) acquitted by the court of criminal appeals

2-49 or, if the period for granting a petition for discretionary review

2-50 has expired, by a court of appeals; or

2-51 (2) an office of the attorney representing the state

2-52 authorized by law to prosecute the offense for which the person was

2-53 arrested recommends the expunction to the appropriate district

2-54 court before the person is tried for the offense, regardless of

2-55 whether an indictment or information has been presented against the

2-56 person in relation to the offense.

2-57 (c) A court may not order the expunction of records and

2-58 files relating to [~~an arrest for~~] an offense for which a person is

2-59 subsequently acquitted, whether by the trial court, a court of

2-60 appeals, or the court of criminal appeals, if the offense for which

2-61 the person was acquitted arose out of a criminal episode, as defined

2-62 by Section 3.01, Penal Code, and the person was convicted of or

2-63 remains subject to prosecution for at least one other offense

2-64 occurring during the criminal episode.

2-65 (d) A person is entitled to have expunged any information

2-66 that identifies the person, including the person's name, address,

2-67 date of birth, driver's license number, and social security number,

2-68 contained in records and files relating to another person's [~~the~~]

2-69 arrest or to any ensuing criminal proceedings based on that arrest

3-1 [~~of another person expunged~~] if:
 3-2 (1) the information identifying the person asserting
 3-3 the entitlement to expunction was falsely given by the person
 3-4 arrested as the arrested person's identifying information without
 3-5 the consent of the person asserting the entitlement; and
 3-6 (2) the only reason for the information identifying
 3-7 the person asserting the entitlement being contained in the
 3-8 [~~arrest~~] offense records and files of the person arrested is that
 3-9 the information was falsely given by the person arrested as the
 3-10 arrested person's identifying information.

3-11 SECTION 2. Section 2a(b), Article 55.02, Code of Criminal
 3-12 Procedure, is amended to read as follows:

3-13 (b) The application must be verified, include authenticated
 3-14 fingerprint records of the applicant, and include the following or
 3-15 an explanation for why one or more of the following is not included:

3-16 (1) the applicant's full name, sex, race, date of
 3-17 birth, driver's license number, social security number, and address
 3-18 at the time the person who falsely identified himself or herself as
 3-19 the applicant was arrested;

3-20 (2) the following information regarding the arrest:
 3-21 (A) the date of arrest;
 3-22 (B) the offense charged against the person
 3-23 arrested;

3-24 (C) the name of the county or municipality in
 3-25 which the arrest occurred; and

3-26 (D) the name of the arresting agency; and

3-27 (3) a statement that:

3-28 (A) the applicant is not the person arrested and
 3-29 for whom the applicable [~~arrest~~] records and files were created;
 3-30 and

3-31 (B) the applicant did not give the person
 3-32 arrested consent to falsely identify himself or herself as the
 3-33 applicant.

3-34 SECTION 3. Section 3(a), Article 55.02, Code of Criminal
 3-35 Procedure, is amended to read as follows:

3-36 (a) In an order of expunction issued under this article, the
 3-37 court shall require any state agency that sent information
 3-38 concerning the offense [~~arrest~~] to a central federal depository to
 3-39 request the depository to return all records and files subject to
 3-40 the order of expunction. The person who is the subject of the
 3-41 expunction order or an agency protesting the expunction may appeal
 3-42 the court's decision in the same manner as in other civil cases.

3-43 SECTION 4. Section 4(a-1), Article 55.02, Code of Criminal
 3-44 Procedure, is amended to read as follows:

3-45 (a-1) The court shall provide in its expunction order that
 3-46 the applicable law enforcement agency and prosecuting attorney may
 3-47 retain the offense [~~arrest~~] records and files of any person who
 3-48 becomes entitled to an expunction of those records and files based
 3-49 on the expiration of a period described by Article
 3-50 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of
 3-51 the prosecuting attorney as described by Article
 3-52 55.01(a)(2)(A)(i)(d).

3-53 SECTION 5. Article 55.03, Code of Criminal Procedure, is
 3-54 amended to read as follows:

3-55 Art. 55.03. EFFECT OF EXPUNCTION. When the order of
 3-56 expunction is final:

3-57 (1) the release, maintenance, dissemination, or use of
 3-58 the expunged records and files for any purpose is prohibited;

3-59 (2) except as provided in Subdivision (3) [~~of this~~
 3-60 ~~article~~], the person arrested may deny:

3-61 (A) the occurrence of the arrest and any ensuing
 3-62 criminal proceedings based on the arrest; and

3-63 (B) the existence of the expunction order; and

3-64 (3) the person arrested or any other person, when
 3-65 questioned under oath in a criminal proceeding about an offense
 3-66 [~~arrest~~] for which the records have been expunged, may state only
 3-67 that the matter in question has been expunged.

3-68 SECTION 6. Section 1, Article 55.04, Code of Criminal
 3-69 Procedure, is amended to read as follows:

4-1 Sec. 1. A person who, [~~acquires knowledge of an arrest~~]
4-2 while an officer or employee of the state or of any agency or other
4-3 entity of the state or any political subdivision of the state,
4-4 acquires knowledge of an arrest or of criminal proceedings based on
4-5 that arrest and who knows of an order expunging the records and
4-6 files relating to the applicable offense [~~that arrest~~] commits an
4-7 offense if he knowingly releases, disseminates, or otherwise uses
4-8 the records or files.

4-9 SECTION 7. Section 109.005(a), Business & Commerce Code, as
4-10 added by Chapter 1200 (S.B. No. 1289), Acts of the 83rd
4-11 Legislature, Regular Session, 2013, is amended to read as follows:

4-12 (a) A business entity may not publish any criminal record
4-13 information in the business entity's possession with respect to
4-14 which the business entity has knowledge or has received notice
4-15 that:

4-16 (1) an order of expunction has been issued under
4-17 Article 55.02, Code of Criminal Procedure; or

4-18 (2) an order of nondisclosure has been issued under
4-19 Section 411.081 [~~411.081(d)~~], Government Code.

4-20 SECTION 8. Section 103.0211, Government Code, is amended to
4-21 read as follows:

4-22 Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
4-23 CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party
4-24 to a civil suit, as applicable, shall pay the following fees and
4-25 costs under the Government Code if ordered by the court or otherwise
4-26 required:

4-27 (1) a court reporter fee when testimony is taken:

4-28 (A) in a criminal court in Dallas County (Sec.
4-29 25.0593, Government Code) . . . \$3;

4-30 (B) in a county criminal court of appeals in
4-31 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

4-32 (C) in a county court at law in McLennan County
4-33 (Sec. 25.1572, Government Code) . . . \$3; and

4-34 (D) in a county criminal court in Tarrant County
4-35 (Sec. 25.2223, Government Code) . . . \$3;

4-36 (2) a court reporter service fee if the courts have
4-37 official court reporters (Sec. 51.601, Government Code) . . . \$15
4-38 or, in specified counties, \$30;

4-39 (3) a speedy trial rights waiver motion filing fee in
4-40 El Paso County (Sec. 54.745, Government Code) . . . \$100;

4-41 (4) the costs of a criminal magistrate if the court
4-42 determines that the nonprevailing party is able to defray the
4-43 costs:

4-44 (A) in Bexar County (Sec. 54.913, Government
4-45 Code) . . . magistrate's fees;

4-46 (B) in Dallas County (Sec. 54.313, Government
4-47 Code) . . . magistrate's fees;

4-48 (C) in Lubbock County (Sec. 54.883, Government
4-49 Code) . . . magistrate's fees;

4-50 (D) in Tarrant County (Sec. 54.663, Government
4-51 Code) . . . magistrate's fees; and

4-52 (E) in Travis County (Sec. 54.983, Government
4-53 Code) . . . magistrate's fees;

4-54 (5) an administrative fee for participation in certain
4-55 community supervision programs (Sec. 76.015, Government Code)
4-56 . . . not less than \$25 and not more than \$60 per month; [~~and~~]

4-57 (6) fee paid on filing a petition for an order of
4-58 nondisclosure of criminal history record information in certain
4-59 cases (Sec. 411.081(f-1) [~~411.081~~], Government Code) . . . \$28.

4-60 SECTION 9. Section 411.081, Government Code, is amended by
4-61 adding Subsections (d-1), (e-1), (h-1), and (h-2) and amending
4-62 Subsections (f), (f-1), and (h) to read as follows:

4-63 (d-1) Notwithstanding any other provision of this chapter
4-64 and subject to Subsection (e-1), a person who is convicted of and
4-65 has satisfied the judgment for or who has received a dismissal after
4-66 deferral of disposition for a fine-only misdemeanor, other than an
4-67 offense under the Transportation Code or an offense under a
4-68 municipal ordinance or county order, may petition the court that
4-69 convicted or granted a dismissal to the person for an order of

5-1 nondisclosure under this subsection. After notice to the state,
 5-2 the court shall hold a hearing on whether the person is entitled to
 5-3 file the petition and whether issuance of the order is in the best
 5-4 interest of justice. In determining whether granting the order is
 5-5 in the best interest of justice, the court may consider the person's
 5-6 criminal history record information among any other factors the
 5-7 court considers relevant. If the court determines that granting
 5-8 the order is in the best interest of justice, the court shall issue
 5-9 an order prohibiting criminal justice agencies from disclosing to
 5-10 the public criminal history record information related to the
 5-11 fine-only misdemeanor offense that is the subject of the petition.
 5-12 As a condition of granting the petition under this subsection for a
 5-13 person convicted of the offense, a court may require the defendant
 5-14 to perform community service, pay a fee, or both perform the
 5-15 community service and pay the fee as if the defendant had been
 5-16 placed on probation pending deferred disposition under Article
 5-17 [45.051](#), Code of Criminal Procedure. A criminal justice agency may
 5-18 disclose criminal history record information that is the subject of
 5-19 an order of nondisclosure under this subsection only to other
 5-20 criminal justice agencies for criminal justice or regulatory
 5-21 licensing purposes, an agency or entity listed in Subsection (i),
 5-22 or the person who is the subject of the order. A person may petition
 5-23 the court for an order of nondisclosure under this subsection only
 5-24 on or after the first anniversary of the conviction or dismissal, as
 5-25 applicable.

5-26 (e-1) A person is not entitled to petition the court under
 5-27 Subsection (d-1) if the person has been previously convicted of or
 5-28 placed on deferred adjudication for any offense other than an
 5-29 offense under the Transportation Code punishable by fine only,
 5-30 regardless of whether that offense is subject to an order of
 5-31 nondisclosure of criminal history record information granted under
 5-32 this section or any other law.

5-33 (f) For purposes of ~~Subsections~~ [Subsection] (d), (e), and
 5-34 (e-1), a person is considered to have been placed on deferred
 5-35 adjudication community supervision if, regardless of the statutory
 5-36 authorization:

5-37 (1) the person entered a plea of guilty or nolo
 5-38 contendere;

5-39 (2) the judge deferred further proceedings without
 5-40 entering an adjudication of guilt and placed the person under the
 5-41 supervision of the court or an officer under the supervision of the
 5-42 court; and

5-43 (3) at the end of the period of supervision, the judge
 5-44 dismissed the proceedings and discharged the person.

5-45 (f-1) A person who petitions the court for an order of
 5-46 nondisclosure under Subsection (d) or (d-1) may file the petition
 5-47 in person, electronically, or by mail. The petition must be
 5-48 accompanied by payment of a \$28 fee to the clerk of the court in
 5-49 addition to any other fee that generally applies to the filing of a
 5-50 civil petition. The Office of Court Administration of the Texas
 5-51 Judicial System shall prescribe a form for the filing of a petition
 5-52 electronically or by mail. The form must provide for the petition
 5-53 to be accompanied by the required fees and any other supporting
 5-54 material determined necessary by the office of court
 5-55 administration, including evidence that the person is entitled to
 5-56 file the petition. The office of court administration shall make
 5-57 available on its Internet website the electronic application and
 5-58 printable application form. Each county or district clerk's office
 5-59 that maintains an Internet website shall include on that website a
 5-60 link to the electronic application and printable application form
 5-61 available on the office of court administration's Internet website.
 5-62 On receipt of a petition under this subsection, the court shall
 5-63 provide notice to the state and an opportunity for a hearing on
 5-64 whether the person is entitled to file the petition and issuance of
 5-65 the order is in the best interest of justice. The court shall hold a
 5-66 hearing before determining whether to issue an order of
 5-67 nondisclosure, except that a hearing is not required if:

5-68 (1) the state does not request a hearing on the issue
 5-69 before the 45th day after the date on which the state receives

6-1 notice under this subsection; and

6-2 (2) the court determines that:

6-3 (A) the defendant is entitled to file the
6-4 petition; and

6-5 (B) the order is in the best interest of justice.

6-6 (h) The clerk of a court that collects a fee paid under
6-7 Subsection (f-1) for a petition filed under Subsection (d) [~~(d)~~]
6-8 shall remit the fee to the comptroller not later than the last day
6-9 of the month following the end of the calendar quarter in which the
6-10 fee is collected, and the comptroller shall deposit the fee in the
6-11 general revenue fund.

6-12 (h-1) The clerk of a court that collects a fee paid under
6-13 Subsection (f-1) for a petition filed under Subsection (d-1) shall
6-14 deposit the fee to the credit of the general fund of the
6-15 municipality or county, as applicable.

6-16 (h-2) The Department of Public Safety shall submit a report
6-17 to the legislature not later than December 1 of each even-numbered
6-18 year that includes information on:

6-19 (1) the number of petitions for nondisclosure and
6-20 orders of nondisclosure received by the department in each of the
6-21 previous two years;

6-22 (2) the actions taken by the department with respect
6-23 to the petitions and orders received;

6-24 (3) the costs incurred by the department in taking
6-25 those actions; and

6-26 (4) the number of persons who are the subject of an
6-27 order of nondisclosure and who became the subject of criminal
6-28 charges for an offense committed after the order was issued.

6-29 SECTION 10. Section 411.081(i), Government Code, as amended
6-30 by Chapters 42 (S.B. 966), 266 (H.B. 729), and 583 (S.B. 869), Acts
6-31 of the 83rd Legislature, Regular Session, 2013, is reenacted and
6-32 amended to read as follows:

6-33 (i) A criminal justice agency may disclose criminal history
6-34 record information that is the subject of an order of nondisclosure
6-35 under this section [~~Subsection (d)~~] to the following noncriminal
6-36 justice agencies or entities only:

6-37 (1) the State Board for Educator Certification;

6-38 (2) a school district, charter school, private school,
6-39 regional education service center, commercial transportation
6-40 company, or education shared service arrangement;

6-41 (3) the Texas Medical Board;

6-42 (4) the Texas School for the Blind and Visually
6-43 Impaired;

6-44 (5) the Board of Law Examiners;

6-45 (6) the State Bar of Texas;

6-46 (7) a district court regarding a petition for name
6-47 change under Subchapter B, Chapter 45, Family Code;

6-48 (8) the Texas School for the Deaf;

6-49 (9) the Department of Family and Protective Services;

6-50 (10) the Texas Juvenile Justice Department;

6-51 (11) the Department of Assistive and Rehabilitative
6-52 Services;

6-53 (12) the Department of State Health Services, a local
6-54 mental health service, a local intellectual and developmental
6-55 disability [~~mental retardation~~] authority, or a community center
6-56 providing services to persons with mental illness or intellectual
6-57 or developmental disabilities [~~retardation~~];

6-58 (13) the Texas Private Security Board;

6-59 (14) a municipal or volunteer fire department;

6-60 (15) the Texas Board of Nursing;

6-61 (16) a safe house providing shelter to children in
6-62 harmful situations;

6-63 (17) a public or nonprofit hospital or hospital
6-64 district, or a facility as defined by Section 250.001, Health and
6-65 Safety Code;

6-66 (18) the securities commissioner, the banking
6-67 commissioner, the savings and mortgage lending commissioner, the
6-68 consumer credit commissioner, or the credit union commissioner;

6-69 (19) the Texas State Board of Public Accountancy;

- 7-1 (20) the Texas Department of Licensing and Regulation;
- 7-2 (21) the Health and Human Services Commission;
- 7-3 (22) the Department of Aging and Disability Services;
- 7-4 (23) the Texas Education Agency;
- 7-5 (24) the Judicial Branch Certification Commission;
- 7-6 (25) a county clerk's office in relation to a
- 7-7 proceeding for the appointment of a guardian under Title 3, Estates
- 7-8 Code [~~Chapter XIII, Texas Probate Code~~];
- 7-9 (26) the Department of Information Resources but only
- 7-10 regarding an employee, applicant for employment, contractor,
- 7-11 subcontractor, intern, or volunteer who provides network security
- 7-12 services under Chapter 2059 to:
- 7-13 (A) the Department of Information Resources; or
- 7-14 (B) a contractor or subcontractor of the
- 7-15 Department of Information Resources;
- 7-16 (27) the Texas Department of Insurance;
- 7-17 (28) the Teacher Retirement System of Texas; and
- 7-18 (29) [~~30~~] the Texas State Board of Pharmacy.

7-19 SECTION 11. Section 411.0851(a), Government Code, is
7-20 amended to read as follows:

7-21 (a) A private entity that compiles and disseminates for
7-22 compensation criminal history record information shall destroy and
7-23 may not disseminate any information in the possession of the entity
7-24 with respect to which the entity has received notice that:

- 7-25 (1) an order of expunction has been issued under
- 7-26 Article 55.02, Code of Criminal Procedure; or
- 7-27 (2) an order of nondisclosure has been issued under
- 7-28 Section 411.081 [~~411.081(a)~~].

7-29 SECTION 12. The heading to Section 552.142, Government
7-30 Code, is amended to read as follows:

7-31 Sec. 552.142. EXCEPTION: CONFIDENTIALITY OF RECORDS OF
7-32 CERTAIN CRIMINAL HISTORY INFORMATION [~~DEFERRED ADJUDICATIONS~~].

7-33 SECTION 13. Section 552.142(a), Government Code, is amended
7-34 to read as follows:

7-35 (a) Information is excepted from the requirements of
7-36 Section 552.021 if an order of nondisclosure with respect to the
7-37 information has been issued under Section 411.081 [~~411.081(a)~~].

7-38 SECTION 14. Section 552.1425(a), Government Code, is
7-39 amended to read as follows:

7-40 (a) A private entity that compiles and disseminates for
7-41 compensation criminal history record information may not compile or
7-42 disseminate information with respect to which the entity has
7-43 received notice that:

- 7-44 (1) an order of expunction has been issued under
- 7-45 Article 55.02, Code of Criminal Procedure; or
- 7-46 (2) an order of nondisclosure has been issued under
- 7-47 Section 411.081 [~~411.081(a)~~].

7-48 SECTION 15. Section 53.021(e), Occupations Code, is amended
7-49 to read as follows:

7-50 (e) Subsection (c) does not apply if the person is an
7-51 applicant for or the holder of a license that authorizes the person
7-52 to provide:

- 7-53 (1) law enforcement or public health, education, or
- 7-54 safety services; or
- 7-55 (2) financial services in an industry regulated by a
- 7-56 person listed in Section 411.081(i)(18) [~~411.081(i)(19)~~],
- 7-57 Government Code.

7-58 SECTION 16. Section 15, Article 42.12, Code of Criminal
7-59 Procedure, is amended by adding Subsections (l), (m), and (n) to
7-60 read as follows:

7-61 (l) On written motion of a defendant after completion of
7-62 two-thirds of the original community supervision period for a state
7-63 jail felony with respect to which written consent was obtained
7-64 under Section 12.44(c), Penal Code, the judge may review the
7-65 defendant's record and consider whether to amend the record of
7-66 conviction to reflect a conviction for a Class A misdemeanor in lieu
7-67 of a state jail felony. On disposition of the community supervision
7-68 in a manner provided by Section 20, the judge, on discharge of the
7-69 defendant, may amend the record of conviction to reflect a

8-1 conviction for a Class A misdemeanor in lieu of a state jail felony,
8-2 subject to Subsection (m), if:

8-3 (1) the offense for which the defendant was placed on
8-4 community supervision was not an offense:

8-5 (A) under Section 30.02, Section 30.04, Section
8-6 39.04(a)(2), Section 49.045, or Title 5, Penal Code;

8-7 (B) under Article 62.102; or

8-8 (C) involving family violence, as defined by
8-9 Section 71.004, Family Code;

8-10 (2) the defendant has fulfilled to the judge's
8-11 satisfaction all the conditions of community supervision,
8-12 including the payment of all required restitution, and is not
8-13 delinquent on the payment of any fines, costs, and fees that the
8-14 defendant has the ability to pay;

8-15 (3) the defendant files with the written motion a
8-16 statement that:

8-17 (A) contains a summary of the defendant's
8-18 performance during community supervision, including compliance
8-19 with the conditions of community supervision; and

8-20 (B) asserts that the defendant meets the
8-21 conditions for an amendment of the record of conviction under this
8-22 subsection;

8-23 (4) the defendant provides a copy of the motion and
8-24 statement to the attorney representing the state; and

8-25 (5) at the hearing held on the motion, the judge finds
8-26 that an amendment of the record of conviction is in the best
8-27 interest of justice.

8-28 (m) A judge who amends a record of conviction under
8-29 Subsection (1) may not modify the name of the state jail felony
8-30 offense for which the judge placed the defendant on community
8-31 supervision. A defendant whose record of conviction is amended
8-32 under Subsection (1) is not considered to have been convicted of a
8-33 felony with respect to the modified offense.

8-34 (n) A record of conviction that is amended under Subsection
8-35 (1) supersedes and takes the place of the record of conviction as it
8-36 existed on the original date of conviction. A judge retains
8-37 jurisdiction for the purposes of Subsection (1) only until the
8-38 expiration of the term of community supervision.

8-39 SECTION 17. Section 12.44, Penal Code, is amended by adding
8-40 Subsection (c) to read as follows:

8-41 (c) With the written consent of the prosecuting attorney
8-42 prior to sentencing, the court may amend the record of conviction to
8-43 reflect a conviction for a Class A misdemeanor in lieu of a state
8-44 jail felony as provided by Section 15(1), Article 42.12, Code of
8-45 Criminal Procedure.

8-46 SECTION 18. This Act applies to an expunction of records and
8-47 files relating to any criminal offense that occurred before, on, or
8-48 after the effective date of this Act.

8-49 SECTION 19. This Act applies to a petition for an order of
8-50 nondisclosure that is filed on or after the effective date of this
8-51 Act, regardless of whether the misdemeanor that is the subject of
8-52 the petition occurred before, on, or after the effective date of
8-53 this Act.

8-54 SECTION 20. The changes in law made by this Act in amending
8-55 Section 15, Article 42.12, Code of Criminal Procedure, and adding
8-56 Section 12.44(c), Penal Code, apply only to a defendant who is
8-57 placed on community supervision for an offense committed on or
8-58 after the effective date of this Act. A defendant who is placed on
8-59 community supervision for an offense committed before the effective
8-60 date of this Act is governed by the law in effect on the date the
8-61 offense was committed, and the former law is continued in effect for
8-62 that purpose. For purposes of this section, an offense was
8-63 committed before the effective date of this Act if any element of
8-64 the offense occurred before that date.

8-65 SECTION 21. This Act takes effect September 1, 2015.

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