

By: Herrero

H.B. No. 3936

A BILL TO BE ENTITLED

AN ACT

relating to an order of nondisclosure of certain criminal history record information.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.08111 to read as follows:

Sec. 411.08111. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION: DEFERRED ADJUDICATION COMMUNITY SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS. (a) This section only applies to a person placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, in a misdemeanor case that was not under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code.

(b) Notwithstanding any other provision of this subchapter, if a person to whom this section applies subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, and satisfies the requirements of Section 411.0812, the court that placed the defendant on deferred adjudication shall issue an order of nondisclosure under this subchapter prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. The court shall determine whether the person satisfies the requirements of Section 411.0812. The court shall make that determination, and, if the

1 requirements of Section 411.0812 are satisfied, issue the order of
2 nondisclosure:

3 (1) at the time the court dismisses the proceedings
4 against and discharges the defendant, unless that time is before
5 the 180th day after the date the court placed the defendant on
6 deferred adjudication; or

7 (2) as soon as practicable on or after the 180th day
8 after the date the court placed on deferred adjudication a
9 defendant who has already received the defendant's discharge and
10 dismissal.

11 (c) Except as provided by Section 411.0812, the person is
12 entitled to an order of nondisclosure under Subsection (b)
13 regardless of whether the person has been previously convicted or
14 placed on deferred adjudication community supervision for another
15 offense.

16 (d) The defendant shall present to the court evidence
17 necessary to establish that the person is eligible to receive an
18 order of nondisclosure under this section. The defendant must pay a
19 \$28 fee to the clerk of the court before the court issues the order.

20 (e) A criminal justice agency may disclose criminal history
21 record information that is the subject of the order only to other
22 criminal justice agencies, for criminal justice or regulatory
23 licensing purposes, to an agency or entity listed in Section
24 411.0818, or to the person who is the subject of the order.

25 SECTION 2. Section [411.081](#)(d), Government Code, is
26 redesignated as Section 411.08112 of Subchapter F, Chapter 411,
27 Government Code, and amended to read as follows:

1 Sec. 411.08112. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY
2 RECORD INFORMATION: DEFERRED ADJUDICATION COMMUNITY SUPERVISION;
3 CERTAIN OTHER MISDEMEANORS AND FELONIES. (a) This section only
4 applies to a person placed on deferred adjudication community
5 supervision under Section 5, Article 42.12, Code of Criminal
6 Procedure, in a misdemeanor case that is not covered by Section
7 411.08111 or in a felony case.

8 (b) [~~(d)~~] Notwithstanding any other provision of this
9 subchapter, if a person to whom this section applies [~~is placed on~~
10 ~~deferred adjudication community supervision under Section 5,~~
11 ~~Article 42.12, Code of Criminal Procedure,~~] subsequently receives a
12 discharge and dismissal under Section 5(c), Article 42.12, and
13 satisfies the requirements of Section 411.0812 [~~Subsection (e)~~],
14 the person may petition the court that placed the defendant on
15 deferred adjudication for an order of nondisclosure under this
16 section [~~subsection~~].

17 (c) Except as provided by Section 411.0812 [~~Subsection~~
18 ~~(e)~~], a person may petition the court for an order of nondisclosure
19 regardless of whether the person has been previously placed on
20 deferred adjudication community supervision for another offense.

21 (d) After notice to the state, an opportunity for a hearing,
22 and a determination that the person is entitled to file the petition
23 and issuance of the order is in the best interest of justice, the
24 court shall issue an order prohibiting criminal justice agencies
25 from disclosing to the public criminal history record information
26 related to the offense giving rise to the deferred adjudication.

27 (e) A criminal justice agency may disclose criminal history

1 record information that is the subject of the order only to other
2 criminal justice agencies, for criminal justice or regulatory
3 licensing purposes, an agency or entity listed in Section 411.0818
4 ~~[Subsection (i)]~~, or the person who is the subject of the order.

5 (f) A person may petition the court that placed the person
6 on deferred adjudication for an order of nondisclosure under this
7 section only on or after:

8 (1) ~~[the discharge and dismissal, if the offense for~~
9 ~~which the person was placed on deferred adjudication was a~~
10 ~~misdemeanor other than a misdemeanor described by Subdivision (2),~~

11 ~~[(2)]~~ the second anniversary of the discharge and
12 dismissal, if the offense for which the person was placed on
13 deferred adjudication was a misdemeanor not covered by Section
14 411.08111 ~~[under Chapter 20, 21, 22, 25, 42, or 46, Penal Code]~~; or

15 (2) ~~[(3)]~~ the fifth anniversary of the discharge and
16 dismissal, if the offense for which the person was placed on
17 deferred adjudication was a felony.

18 SECTION 3. Subchapter F, Chapter 411, Government Code, is
19 amended by adding Sections 411.08113 and 411.08114 to read as
20 follows:

21 Sec. 411.08113. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY
22 RECORD INFORMATION: COMMUNITY SUPERVISION; CERTAIN MISDEMEANORS.

23 (a) This section only applies to a person placed on community
24 supervision under Article 42.12, Code of Criminal Procedure, in a
25 misdemeanor case under a provision of Article 42.12 other than
26 Section 5, including a person who otherwise satisfies the
27 requirements of this section and Section 411.0812 who is placed on

1 community supervision:

2 (1) under a provision of Article 42.12 that requires
3 the person to serve a term of confinement as a condition of
4 community supervision; or

5 (2) after serving part of a term of confinement
6 imposed for the offense.

7 (b) Notwithstanding any other provision of this subchapter,
8 a person to whom this section applies whose community supervision
9 is not revoked and who completes the period of community
10 supervision may petition the court that placed the defendant on
11 community supervision for an order of nondisclosure under this
12 section if the person:

13 (1) has not previously been granted an order of
14 nondisclosure of criminal history record information under this
15 subchapter for another offense; and

16 (2) satisfies the requirements of this section and
17 Section 411.0812.

18 (c) A person may petition the court for an order of
19 nondisclosure under this section only if the person has never been
20 previously convicted or placed on deferred adjudication community
21 supervision for another offense other than an offense under the
22 Transportation Code punishable by fine only.

23 (d) After notice to the state, an opportunity for a hearing,
24 and a determination that the person is entitled to file the petition
25 and issuance of the order is in the best interest of justice, the
26 court shall issue an order prohibiting criminal justice agencies
27 from disclosing to the public criminal history record information

1 related to the offense giving rise to the community supervision.

2 (e) A criminal justice agency may disclose criminal history
3 record information that is the subject of the order only to other
4 criminal justice agencies, for criminal justice or regulatory
5 licensing purposes, an agency or entity listed in Section 411.0818,
6 or the person who is the subject of the order.

7 (f) A person may petition the court that placed the person
8 on community supervision for an order of nondisclosure under this
9 section only on or after:

10 (1) the completion of the community supervision, if
11 the offense for which the person was placed on community
12 supervision was a misdemeanor other than a misdemeanor described by
13 Subdivision (2); or

14 (2) the second anniversary of the date of completion
15 of the community supervision, if the offense for which the person
16 was placed on community supervision was a misdemeanor under Chapter
17 20, 21, 22, 25, 42, 43, or 46, Penal Code.

18 Sec. 411.08114. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY
19 RECORD INFORMATION: CONVICTION AND CONFINEMENT; CERTAIN
20 MISDEMEANORS. (a) This section applies only to a person who:

21 (1) is convicted of a misdemeanor, sentenced to a
22 period of confinement, and confined, and

23 (2) is not covered under Section 411.08113.

24 (b) Notwithstanding any other provision of this subchapter,
25 a person to whom this section applies who completes the period of
26 confinement and is released may petition the court that imposed the
27 sentence for an order of nondisclosure under this section if the

1 person:

2 (1) has not previously been granted an order of
3 nondisclosure of criminal history record information under this
4 subchapter for another offense; and

5 (2) satisfies the requirements of this section and
6 Section 411.0812.

7 (c) A person may petition the court for an order of
8 nondisclosure under this section only if the person has never been
9 previously convicted or placed on deferred adjudication community
10 supervision for another offense other than an offense under the
11 Transportation Code punishable by fine only.

12 (d) After notice to the state, an opportunity for a hearing,
13 and a determination that the person is entitled to file the petition
14 and issuance of the order is in the best interest of justice, the
15 court shall issue an order prohibiting criminal justice agencies
16 from disclosing to the public criminal history record information
17 related to the offense giving rise to the confinement.

18 (e) A criminal justice agency may disclose criminal history
19 record information that is the subject of the order only to other
20 criminal justice agencies, for criminal justice or regulatory
21 licensing purposes, an agency or entity listed in Section 411.0818,
22 or the person who is the subject of the order.

23 (f) A person may petition the court that imposed the
24 sentence for an order of nondisclosure under this section only on or
25 after the second anniversary of the date of completion of the period
26 of confinement.

27 SECTION 4. Section 411.081(e), Government Code, is

1 redesignated as Section 411.0812 of Subchapter F, Chapter 411,
2 Government Code, and amended to read as follows:

3 Sec. 411.0812. REQUIRED CONDITIONS FOR RECEIVING AN ORDER
4 OF NONDISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION. (a)
5 [~~(e)~~] A person may be granted an order of nondisclosure of criminal
6 history record information under this subchapter and, when
7 applicable, is entitled to petition the court to receive such an
8 order under this subchapter [~~Subsection (d)~~] only if, during the
9 period after the court either pronounced the sentence regarding the
10 offense for which the order of nondisclosure is requested or placed
11 the person on [~~of~~] the deferred adjudication community supervision
12 regarding [~~for~~] which the order of nondisclosure is requested, and
13 during any [~~the~~] applicable waiting period after completion of the
14 sentence or deferred adjudication community supervision required
15 [~~described~~] by this subchapter [~~Subsection (d)(1), (2), or (3), as~~
16 appropriate], the person is not convicted of or placed on deferred
17 adjudication community supervision under Section 5, Article 42.12,
18 Code of Criminal Procedure, for any offense other than an offense
19 under the Transportation Code punishable by fine only.

20 (b) A person may not be granted an order of nondisclosure of
21 criminal history record information under this subchapter and, when
22 applicable, is not entitled to petition the court to receive such an
23 order under this subchapter [~~Subsection (d)~~] if the person was
24 convicted or placed on [~~the~~] deferred adjudication community
25 supervision for or has been previously convicted or placed on any
26 other deferred adjudication for:

27 (1) an offense requiring registration as a sex

1 offender under Chapter 62, Code of Criminal Procedure;

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

6 (3) an offense under Section 19.02, 19.03, 22.04,
7 22.041, 25.07, 25.072, or 42.072, Penal Code; or

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

10 (c) A person may not be granted an order of nondisclosure of
11 criminal history record information under this subchapter and, when
12 applicable, is not entitled to petition the court to receive such an
13 order under this subchapter if the court made an affirmative
14 finding that the offense regarding which the order of nondisclosure
15 is requested involved family violence, as defined by Section
16 71.004, Family Code.

17 SECTION 5. Section 411.081(f), Government Code, is
18 redesignated as Section 411.08121 of Subchapter F, Chapter 411,
19 Government Code, and amended to read as follows:

20 Sec. 411.08121. DEFINITION OF DEFERRED ADJUDICATION
21 COMMUNITY SUPERVISION FOR PURPOSE OF RECEIVING ORDER OF
22 NONDISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION. [~~(f)~~] For
23 purposes related to an order of nondisclosure of criminal history
24 record information under this subchapter [~~of Subsection (d)~~], a
25 person is considered to have been placed on deferred adjudication
26 community supervision if, regardless of the statutory
27 authorization:

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

3 (2) the judge deferred further proceedings without
4 entering an adjudication of guilt and placed the person under the
5 supervision of the court or an officer under the supervision of the
6 court; and

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

9 SECTION 6. Section 411.081(f-1), Government Code, is
10 redesignated as Section 411.0813 of Subchapter F, Chapter 411,
11 Government Code, and amended to read as follows:

12 Sec. 411.0813. NONDISCLOSURE OF CRIMINAL HISTORY RECORD
13 INFORMATION: PETITION AND ORDER. (a) [~~(f-1)~~] A person who
14 petitions the court for an order of nondisclosure of criminal
15 history record information under this subchapter, when a petition
16 is required, [~~Subsection (d)~~] may file the petition in person,
17 electronically, or by mail.

18 (b) The petition must be accompanied by payment of a \$28 fee
19 to the clerk of the court in addition to any other fee that
20 generally applies to the filing of a civil petition.

21 (c) The Office of Court Administration of the Texas Judicial
22 System shall prescribe a form for the filing of a petition
23 electronically or by mail. The form must provide for the petition to
24 be accompanied by the required fees and any other supporting
25 material determined necessary by the office of court
26 administration, including evidence that the person is entitled to
27 file the petition.

1 (d) The office of court administration shall make available
2 on its Internet website the electronic application and printable
3 application form. Each county or district clerk's office that
4 maintains an Internet website shall include on that website a link
5 to the electronic application and printable application form
6 available on the office of court administration's Internet website.

7 (e) On receipt of a petition under this section
8 [~~subsection~~], the court shall provide notice to the state and an
9 opportunity for a hearing on whether the person is entitled to file
10 the petition and issuance of the order is in the best interest of
11 justice. The court shall hold a hearing before determining whether
12 to issue an order of nondisclosure, except that a hearing is not
13 required if:

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

17 (2) the court determines that:

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

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

21 SECTION 7. Sections 411.081(g), (g-1), (g-1a), (g-1b), and
22 (g-1c), Government Code, are redesignated as Section 411.0814 of
23 Subchapter F, Chapter 411, Government Code, and amended to read as
24 follows:

25 Sec. 411.0814. NONDISCLOSURE OF CRIMINAL HISTORY RECORD
26 INFORMATION: PROCEDURE AFTER ORDER. (a) [~~(g)~~] Not later than the
27 15th business day after the date an order of nondisclosure of

1 criminal history record information is issued under this subchapter
2 [~~section~~], the clerk of the court shall send all relevant criminal
3 history record information contained in the order or a copy of the
4 order by certified mail, return receipt requested, or secure
5 electronic mail, electronic transmission, or facsimile
6 transmission to the Crime Records Service of the Department of
7 Public Safety.

8 (b) [~~(g-1)~~] Not later than 10 business days after receipt of
9 relevant criminal history record information contained in an order
10 or a copy of an order under Subsection (a) [~~(g)~~], the Department of
11 Public Safety shall seal any criminal history record information
12 maintained by the department that is the subject of the order. The
13 department shall also send all relevant criminal history record
14 information contained in the order or a copy of the order by
15 certified mail, return receipt requested, or secure electronic
16 mail, electronic transmission, or facsimile transmission to all:

17 (1) law enforcement agencies, jails or other detention
18 facilities, magistrates, courts, prosecuting attorneys,
19 correctional facilities, central state depositories of criminal
20 records, and other officials or agencies or other entities of this
21 state or of any political subdivision of this state;

22 (2) central federal depositories of criminal records
23 that there is reason to believe have criminal history record
24 information that is the subject of the order; and

25 (3) private entities that purchase criminal history
26 record information from the department or that otherwise are likely
27 to have criminal history record information that is subject to the

1 order.

2 (c) [~~(g-1a)~~] The director shall adopt rules regarding
3 minimum standards for the security of secure electronic mail,
4 electronic transmissions, and facsimile transmissions under
5 Subsections (a) [~~(g)~~] and (b) [~~(g-1)~~]. In adopting rules under this
6 subsection, the director shall consult with the Office of Court
7 Administration of the Texas Judicial System.

8 (d) [~~(g-1b)~~] Not later than 30 business days after receipt
9 of relevant criminal history record information contained in an
10 order or a copy of an order from the Department of Public Safety
11 under Subsection (b) [~~(g-1)~~], an individual or entity described by
12 Subsection (b)(1) [~~(g-1)(1)~~] shall seal any criminal history record
13 information maintained by the individual or entity that is the
14 subject of the order.

15 (e) [~~(g-1c)~~] The department may charge to a private entity
16 that purchases criminal history record information from the
17 department a fee in an amount sufficient to recover costs incurred
18 by the department in providing relevant criminal history record
19 information contained in an order or a copy of an order under
20 Subsection (b)(3) [~~(g-1)(3)~~] to the entity.

21 SECTION 8. Section 411.081(g-2), Government Code, is
22 redesignated as Section 411.0815 of Subchapter F, Chapter 411,
23 Government Code, and amended to read as follows:

24 Sec. 411.0815. NONDISCLOSURE OF CRIMINAL HISTORY RECORD
25 INFORMATION: STATEMENT IN APPLICATION FOR EMPLOYMENT, INFORMATION,
26 OR LICENSING. [~~(g-2)~~] A person whose criminal history record
27 information has been sealed under this subchapter [section] is not

1 required in any application for employment, information, or
2 licensing to state that the person has been the subject of any
3 criminal proceeding related to the information that is the subject
4 of an order of nondisclosure of criminal history record information
5 issued under this subchapter [section].

6 SECTION 9. Section 411.081(g-3), Government Code, is
7 redesignated as Section 411.0816 of Subchapter F, Chapter 411,
8 Government Code, and amended to read as follows:

9 Sec. 411.0816. NONDISCLOSURE OF CRIMINAL HISTORY RECORD
10 INFORMATION: DISCLOSURE BY COURT. (a) [~~g-3~~] A court may not
11 disclose to the public any information contained in the court
12 records that is the subject of an order of nondisclosure of criminal
13 history record information issued under this subchapter [~~section~~].
14 The court may disclose information contained in the court records
15 that is the subject of an order of nondisclosure only to criminal
16 justice agencies for criminal justice or regulatory licensing
17 purposes, to an agency or entity listed in Section 411.0818
18 [~~Subsection (i)~~], or to the person who is the subject of the order.

19 (b) The clerk of the court issuing an order of nondisclosure
20 under this subchapter [~~section~~] shall seal any court records
21 containing information that is the subject of the order as soon as
22 practicable after the date the clerk of the court sends all relevant
23 criminal history record information contained in the order or a
24 copy of the order to the Department of Public Safety under Section
25 411.0814(a) [~~Subsection (g)~~].

26 SECTION 10. Section 411.081(h), Government Code, is
27 redesignated as Section 411.0817 of Subchapter F, Chapter 411,

1 Government Code, and amended to read as follows:

2 Sec. 411.0817. NONDISCLOSURE OF CRIMINAL HISTORY RECORD
3 INFORMATION: DISPOSITION OF FEE; DEPARTMENT OF PUBLIC SAFETY
4 REPORT. (a) [~~(h)~~] The clerk of a court that collects a fee in
5 connection with a petition or order for nondisclosure of criminal
6 history record information under this subchapter [~~Subsection (d)~~]
7 shall remit the fee to the comptroller not later than the last day
8 of the month following the end of the calendar quarter in which the
9 fee is collected, and the comptroller shall deposit the fee in the
10 general revenue fund.

11 (b) The Department of Public Safety shall submit a report to
12 the legislature not later than December 1 of each even-numbered
13 year that includes information on:

14 (1) the number of petitions for nondisclosure of
15 criminal history record information and orders of nondisclosure of
16 criminal history record information received by the department in
17 each of the previous two years;

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

20 (3) the costs incurred by the department in taking
21 those actions; and

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

25 SECTION 11. Section 411.081(i), Government Code, as amended
26 by Section 4, Chapter 266, Section 32, Chapter 583, and Section
27 2.23, Chapter 42, Acts of the 83rd Legislature, Regular Session,

1 2013, is redesignated as Section 411.0818 of Subchapter F, Chapter
2 411, Government Code, and amended to read as follows:

3 Sec. 411.0818. ALLOWED DISCLOSURE OF CRIMINAL HISTORY
4 RECORD INFORMATION TO CERTAIN AGENCIES. [~~(i)~~] A criminal justice
5 agency may disclose criminal history record information that is the
6 subject of an order of nondisclosure of criminal history record
7 information under this subchapter [~~Subsection (d)~~] to the following
8 noncriminal justice agencies or entities only:

- 9 (1) the State Board for Educator Certification;
- 10 (2) a school district, charter school, private school,
11 regional education service center, commercial transportation
12 company, or education shared service arrangement;
- 13 (3) the Texas Medical Board;
- 14 (4) the Texas School for the Blind and Visually
15 Impaired;
- 16 (5) the Board of Law Examiners;
- 17 (6) the State Bar of Texas;
- 18 (7) a district court regarding a petition for name
19 change under Subchapter B, Chapter 45, Family Code;
- 20 (8) the Texas School for the Deaf;
- 21 (9) the Department of Family and Protective Services;
- 22 (10) the Texas Juvenile Justice Department;
- 23 (11) the Department of Assistive and Rehabilitative
24 Services;
- 25 (12) the Department of State Health Services, a local
26 mental health service, a local mental retardation authority, or a
27 community center providing services to persons with mental illness

1 or retardation;

2 (13) the Texas Private Security Board;

3 (14) a municipal or volunteer fire department;

4 (15) the Texas Board of Nursing;

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

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

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

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

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

15 (21) the Health and Human Services Commission;

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

17 (23) the Texas Education Agency;

18 (24) the Judicial Branch Certification Commission;

19 (25) a county clerk's office in relation to a
20 proceeding for the appointment of a guardian under Chapter XIII,
21 Texas Probate Code;

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

26 (A) the Department of Information Resources; or

27 (B) a contractor or subcontractor of the

1 Department of Information Resources;

2 (27) the Texas Department of Insurance; ~~and~~

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

4 (29) the Texas State Board of Pharmacy.

5 SECTION 12. Subchapter F, Chapter 411, Government Code, is
6 amended by adding Section 411.0819 to read as follows:

7 Sec. 411.0819. ADMISSIBILITY OF CRIMINAL HISTORY RECORD
8 INFORMATION IN SUBSEQUENT CRIMINAL PROCEEDING. Notwithstanding
9 any other law, criminal history record information that is the
10 subject of an order of nondisclosure under this subchapter:

11 (1) shall be admissible before the court or jury at the
12 trial of any subsequent offense for any relevant purpose; and

13 (2) may be disclosed to a prosecuting attorney and
14 included in an indictment or information.

15 SECTION 13. Section 109.005(a), Business and Commerce Code,
16 is amended to read as follows:

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

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

23 (2) an order of nondisclosure has been issued under
24 Subchapter F, Chapter 411 ~~[Section 411.081(d)]~~, Government Code.

25 SECTION 14. Article 12.03, Code of Criminal Procedure, is
26 amended by adding Section 5 to read as follows:

27 Sec. 5. Except as otherwise provided by Section 5(a-1) of

1 Article 42.12 of this code, the court after pronouncing the
2 sentence shall inform the defendant of the defendant's right to
3 petition the court for an order of nondisclosure of criminal
4 history record information under Subchapter F, Chapter 411,
5 Government Code, unless the defendant is ineligible to pursue that
6 right because of the requirements that apply to obtaining such an
7 order in the defendant's circumstances, such as:

8 (1) the nature of the offense for which the defendant
9 is convicted;

10 (2) the defendant's criminal history; or

11 (3) under circumstances when this prohibition on
12 receiving an order is applicable, because the defendant has
13 previously received an order of nondisclosure of criminal history
14 record information under Subchapter F, Chapter 411, Government
15 Code, for another offense.

16 SECTION 15. Section 5(a-1), Article 42.12, Code of Criminal
17 Procedure, is amended to read as follows:

18 (a-1) Before placing a defendant on deferred adjudication
19 community supervision under this section, the court shall inform
20 the defendant of the defendant's right to receive or to petition the
21 court for an order of nondisclosure of criminal history record
22 information under Subchapter F, Chapter 411 [~~Section 411.081~~],
23 Government Code, as applicable, unless the defendant is ineligible
24 to pursue that right because of:

25 (1) the nature of the offense for which the defendant
26 is placed on deferred adjudication community supervision; or

27 (2) the defendant's criminal history.

1 SECTION 16. Section 5(c-1), Article 42.12, Code of Criminal
2 Procedure, is amended to read as follows:

3 (c-1) A judge who dismisses the proceedings against a
4 defendant and discharges the defendant under Subsection (c) shall:

5 (1) provide the defendant with a copy of the order of
6 dismissal and discharge; and

7 (2) if and as applicable, grant, or inform the
8 defendant of the defendant's eligibility to petition the court for,
9 an order of nondisclosure of criminal history record information
10 under Subchapter F, Chapter 411 [~~Section 411.081~~], Government Code,
11 and if and as applicable the earliest date the defendant is eligible
12 to receive the order of nondisclosure or to file the petition for
13 the order of nondisclosure.

14 SECTION 17. Section 54.656(a), Government Code, is amended
15 to read as follows:

16 (a) A judge may refer to a magistrate any criminal case for
17 proceedings involving:

- 18 (1) a negotiated plea of guilty before the court;
19 (2) a bond forfeiture;
20 (3) a pretrial motion;
21 (4) a postconviction writ of habeas corpus;
22 (5) an examining trial;
23 (6) an occupational driver's license;
24 (7) an agreed order of expunction under Chapter 55,
25 Code of Criminal Procedure;
26 (8) an asset forfeiture hearing as provided by Chapter
27 59, Code of Criminal Procedure;

1 (9) an agreed order of nondisclosure provided by
2 Subchapter F, Chapter 411 [~~Section 411.081~~];

3 (10) a hearing on a motion to revoke probation; and

4 (11) any other matter the judge considers necessary
5 and proper.

6 SECTION 18. Section 103.0211, Government Code, is amended
7 to read as follows:

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

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

14 (A) in a criminal court in Dallas County (Sec.
15 25.0593, Government Code) . . . \$3;

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

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

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

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

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

27 (4) the costs of a criminal magistrate if the court

1 determines that the nonprevailing party is able to defray the
2 costs:

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

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

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

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

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

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

16 (6) fee paid on filing a petition for an order of
17 nondisclosure of criminal history record information in certain
18 cases (Subchapter F, Chapter 411 [~~Sec. 411.081~~], Government Code)
19 . . . \$28.

20 SECTION 19. Section 123.001(b), Government Code, is amended
21 to read as follows:

22 (b) If a defendant successfully completes a drug court
23 program, regardless of whether the defendant was convicted of the
24 offense for which the defendant entered the program or whether the
25 court deferred further proceedings without entering an
26 adjudication of guilt, after notice to the state and a hearing on
27 whether the defendant is otherwise entitled to the petition and

1 whether issuance of the order is in the best interest of justice,
2 the court shall enter an order of nondisclosure under Subchapter F,
3 Chapter 411 [~~Section 411.081~~] as if the defendant had received a
4 discharge and dismissal under Section 5(c), Article 42.12, Code of
5 Criminal Procedure, with respect to all records and files related
6 to the defendant's arrest for the offense for which the defendant
7 entered the program if the defendant:

8 (1) has not been previously convicted of an offense
9 listed in Section 3g, Article 42.12, Code of Criminal Procedure, or
10 a sexually violent offense, as defined by Article 62.001, Code of
11 Criminal Procedure; and

12 (2) is not convicted for any felony offense between
13 the date on which the defendant successfully completed the program
14 and the second anniversary of that date.

15 SECTION 20. Section 411.0851(a), Government Code, is
16 amended to read as follows:

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

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

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

25 SECTION 21. Section 552.142(a), Government Code, is amended
26 to read as follows:

27 (a) Information is excepted from the requirements of

1 Section 552.021 if an order of nondisclosure with respect to the
2 information has been issued under Subchapter F, Chapter 411
3 [~~Section 411.081(d)~~].

4 SECTION 22. Section 552.1425(a), Government Code, is
5 amended to read as follows:

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

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

12 (2) an order of nondisclosure has been issued under
13 Subchapter F, Chapter 411 [~~Section 411.081(d)~~].

14 SECTION 23. Section 169.001(b), Health and Safety Code, is
15 amended to read as follows:

16 (b) If a defendant successfully completes a first offender
17 prostitution prevention program, regardless of whether the
18 defendant was convicted of the offense for which the defendant
19 entered the program or whether the court deferred further
20 proceedings without entering an adjudication of guilt, after notice
21 to the state and a hearing on whether the defendant is otherwise
22 entitled to the petition, including whether the required time
23 period has elapsed, and whether issuance of the order is in the best
24 interest of justice, the court shall enter an order of
25 nondisclosure under Subchapter F, Chapter 411 [~~Section 411.081~~],
26 Government Code, as if the defendant had received a discharge and
27 dismissal under Section 5(c), Article 42.12, Code of Criminal

1 Procedure, with respect to all records and files related to the
2 defendant's arrest for the offense for which the defendant entered
3 the program if the defendant:

4 (1) has not been previously convicted of a felony
5 offense; and

6 (2) is not convicted of any other felony offense
7 before the second anniversary of the defendant's successful
8 completion of the program.

9 SECTION 24. Section 169A.001(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) If a defendant successfully completes a prostitution
12 prevention program, regardless of whether the defendant was
13 convicted of the offense for which the defendant entered the
14 program or whether the court deferred further proceedings without
15 entering an adjudication of guilt, after notice to the state and a
16 hearing on whether the defendant is otherwise entitled to the
17 petition, including whether the required time has elapsed, and
18 whether issuance of the order is in the best interest of justice,
19 the court shall enter an order of nondisclosure under Subchapter F,
20 Chapter 411 [~~Section 411.081~~], Government Code, as if the defendant
21 had received a discharge and dismissal under Section 5(c), Article
22 42.12, Code of Criminal Procedure, with respect to all records and
23 files related to the defendant's arrest for the offense for which
24 the defendant entered the program.

25 SECTION 25. Section 53.021(e), Occupations Code, is amended
26 to read as follows:

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

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

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

5 (2) financial services in an industry regulated by a
6 person listed in Section 411.0818(18) [~~411.081(i)(19)~~], Government
7 Code.

8 SECTION 26. The changes in law made by this Act apply only
9 in relation to an offense committed on or after the effective date
10 of this Act. Matters relating to an order of nondisclosure of
11 criminal history record information in relation to an offense
12 committed before the effective date of this Act are governed by the
13 law on such orders in effect immediately before the effective date
14 of this Act, and the prior law is continued in effect for this
15 purpose.

16 SECTION 27. This Act takes effect September 1, 2015.