

By: Hinojosa

S.B. No. 563

A BILL TO BE ENTITLED

AN ACT

relating to orders of nondisclosure issued for records of certain fine-only misdemeanors; authorizing a fee.

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

SECTION 1. Section 103.0211, Government Code, is amended to read as follows:

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

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

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

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

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

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

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

(3) a speedy trial rights waiver motion filing fee in

1 El Paso County (Sec. 54.745, Government Code) . . . \$100;

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

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

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

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

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

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

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

18 (6) fee paid on filing a petition for an order of  
19 nondisclosure of criminal history record information in certain  
20 deferred adjudication cases (Sec. 411.081(d) [~~411.081~~], Government  
21 Code) . . . \$28; and

22 (7) fee paid on filing a petition for an order of  
23 nondisclosure of criminal history record information in certain  
24 fine-only misdemeanor cases (Sec. 411.081(d-1), Government Code)  
25 . . . \$28.

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

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

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

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

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

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

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

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

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

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

26 (i) A criminal justice agency may disclose criminal history  
27 record information that is the subject of an order of nondisclosure

1 under this section [~~Subsection (d)~~] to the following noncriminal  
2 justice agencies or entities only:

3 (1) the State Board for Educator Certification;

4 (2) a school district, charter school, private school,  
5 regional education service center, commercial transportation  
6 company, or education shared service arrangement;

7 (3) the Texas Medical Board;

8 (4) the Texas School for the Blind and Visually  
9 Impaired;

10 (5) the Board of Law Examiners;

11 (6) the State Bar of Texas;

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

14 (8) the Texas School for the Deaf;

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

16 (10) the Texas Juvenile Justice Department;

17 (11) the Department of Assistive and Rehabilitative  
18 Services;

19 (12) the Department of State Health Services, a local  
20 mental health service, a local mental retardation authority, or a  
21 community center providing services to persons with mental illness  
22 or retardation;

23 (13) the Texas Private Security Board;

24 (14) a municipal or volunteer fire department;

25 (15) the Texas Board of Nursing;

26 (16) a safe house providing shelter to children in  
27 harmful situations;

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

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

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

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

9           (21) the Health and Human Services Commission;

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

11          (23) the Texas Education Agency;

12          (24) the Judicial Branch Certification Commission;

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

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

20                 (A) the Department of Information Resources; or

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

23          (27) the Texas Department of Insurance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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