

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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

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

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

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

(B) convicted and subsequently:

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

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

(2) the person has been released and the charge, if any, for the offense for which the expunction is sought has been dismissed or has not resulted in a final conviction for that offense, the charge ~~and~~ is no longer pending, and there was no court-ordered community supervision under Article 42.12 for that ~~the~~ offense unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person

SENATE VERSION (IE)

ARTICLE 1. [FA1(1)]

SECTION 1.____. Article 55.01, Code of Criminal Procedure, is amended to read as follows: [FA1(1)]

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

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

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

(B) convicted and subsequently:

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

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

(2) the person has been released and the charge, if any, for the offense for which the expunction is sought has been dismissed or has not resulted in a final conviction for that offense, the charge ~~and~~ is no longer pending, and there was no court-ordered community supervision under Article 42.12 for that ~~the~~ offense unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

with the commission of ~~the~~ a misdemeanor offense ~~[based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested]:~~

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

(a) at least 30 ~~[180]~~ days have elapsed from the date of arrest if the offense ~~[arrest]~~ for which the expunction was sought was ~~[for an offense]~~ punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least 90 days ~~have~~ [one year has] elapsed from the date of arrest if the offense ~~[arrest]~~ for which the expunction was sought was ~~[for an offense]~~ punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

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

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

(ii) if presented at any time following the person's arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time

SENATE VERSION (IE)

with the commission of ~~the~~ a misdemeanor offense ~~[based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested]:~~

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

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

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

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

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

(ii) if presented at any time following the person's arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

of the dismissal to believe the person committed the offense, or because the indictment or information was void; or

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

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

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

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

(1) the person is:

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

(B) convicted of the offense; and

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

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented

SENATE VERSION (IE)

of the dismissal to believe the person committed the offense, or because the indictment or information was void; or

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

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

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

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

(1) the person is:

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

(B) convicted of the offense; and

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

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

against the person in relation to the offense.

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

(d) A person is entitled to have expunged any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to another person's [the] arrest or to any ensuing criminal proceedings based on that arrest ~~[of another person expunged]~~ if:

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

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

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

(b) The application must be verified, include authenticated

SENATE VERSION (IE)

against the person in relation to the offense.

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

(d) A person is entitled to have expunged any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to another person's [the] arrest or to any ensuing criminal proceedings based on that arrest ~~[of another person expunged]~~ if:

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

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

SECTION 1.____. Same as House version. [FA1(1)]

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

fingerprint records of the applicant, and include the following or an explanation for why one or more of the following is not included:

- (1) the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time the person who falsely identified himself or herself as the applicant was arrested;
- (2) the following information regarding the arrest:
 - (A) the date of arrest;
 - (B) the offense charged against the person arrested;
 - (C) the name of the county or municipality in which the arrest occurred; and
 - (D) the name of the arresting agency; and
- (3) a statement that:
 - (A) the applicant is not the person arrested and for whom the applicable ~~[arrest]~~ records and files were created; and
 - (B) the applicant did not give the person arrested consent to falsely identify himself or herself as the applicant.

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

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

SENATE VERSION (IE)

CONFERENCE

SECTION 1.____. Same as House version. [FA1(1)]

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

- (1) the release, maintenance, dissemination, or use of the expunged records and files for any purpose is prohibited;
- (2) except as provided in Subdivision (3) ~~[of this article]~~, the person arrested may deny:
 - (A) the occurrence of the arrest and any ensuing criminal proceedings based on the arrest; and
 - (B) the existence of the expunction order; and
- (3) the person arrested or any other person, when questioned under oath in a criminal proceeding about an offense ~~[arrest]~~ for which the records have been expunged, may state only that the matter in question has been expunged.

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

Sec. 1. A person who, ~~[acquires knowledge of an arrest]~~

SENATE VERSION (IE)

SECTION 1.____. Same as House version. [FA1(1)]

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CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state, acquires knowledge of an arrest or of criminal proceedings based on that arrest and who knows of an order expunging the records and files relating to the applicable offense ~~[that arrest]~~ commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

No equivalent provision.

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

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

- (1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or
- (2) an order of nondisclosure has been issued under Section 411.081 ~~[411.081(d)]~~, Government Code.

SECTION 8. 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

SENATE VERSION (IE)

ARTICLE 2. [FA1(2)]

SECTION 2.____. Same as House version. [FA1(2)]

SECTION 2.____. Section 103.0211, Government Code, is amended to read as follows: [FA1(2)]

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

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 El Paso County (Sec. 54.745, Government Code) . . . \$100;
 - (4) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:
 - (A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;
 - (B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;
 - (C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;
 - (D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees; and
 - (E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees;
 - (5) an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than \$25 and not more than \$60 per month;
- [and]

SENATE VERSION (IE)

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 El Paso County (Sec. 54.745, Government Code) . . . \$100;
 - (4) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:
 - (A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;
 - (B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;
 - (C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;
 - (D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees; and
 - (E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees;
 - (5) an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than \$25 and not more than \$60 per month;
- [and]

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

(d-1) Notwithstanding any other provision of this chapter and subject to Subsection (e-1), a person who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for a fine-only misdemeanor, other than a traffic offense or an offense under a municipal ordinance or county order, may petition the court that convicted or granted a dismissal to the person for an order of nondisclosure under this subsection. After notice to the state, the court shall hold a hearing on whether the person is entitled to file the petition and whether issuance of the order is in the best interest of justice. In determining whether granting the order is in the best interest of justice, the court may consider any factors the court considers relevant. If the court determines that granting the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the fine-only misdemeanor offense that is the subject of the petition. As a condition of

SENATE VERSION (IE)

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

SECTION 2.____. Section 411.081, Government Code, is amended by adding Subsections (d-1), (e-1), (h-1), and (h-2) and amending Subsections (f), (f-1), and (h) to read as follows: [FA1(2)]

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

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(d-2) A person eligible for an order of nondisclosure under Subsection (d-1) who is also eligible for an order of expunction under Chapter 55, Code of Criminal Procedure, for that offense may petition under either provision or both, as appropriate.

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

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

SENATE VERSION (IE)

fine-only misdemeanor offense that is the subject of the petition. As a condition of granting the petition under this subsection for a person convicted of the offense, a court may require the defendant to perform community service, pay a fee, or both perform the community service and pay the fee as if the defendant had been placed on probation pending deferred disposition under Article 45.051, Code of Criminal Procedure. A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under this subsection only to other criminal justice agencies for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court for an order of nondisclosure under this subsection only on or after the first anniversary of the conviction or dismissal, as applicable.

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

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

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(1) the person entered a plea of guilty or nolo contendere;
(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.
(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) or (d-1) may file the petition in person, electronically, or by mail. The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

SENATE VERSION (IE)

(1) the person entered a plea of guilty or nolo contendere;
(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.
(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) or (d-1) may file the petition in person, electronically, or by mail. The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and
- (2) the court determines that:
 - (A) the defendant is entitled to file the petition; and
 - (B) the order is in the best interest of justice.
- (h) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d) [~~(d)~~] shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund.
(h-1) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d-1) shall deposit the fee to the credit of the general fund of the municipality or county, as applicable.
- (h-2) The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:
 - (1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;
 - (2) the actions taken by the department with respect to the petitions and orders received;
 - (3) the costs incurred by the department in taking those actions; and
 - (4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

SENATE VERSION (IE)

- (1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and
- (2) the court determines that:
 - (A) the defendant is entitled to file the petition; and
 - (B) the order is in the best interest of justice.
- (h) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d) [~~(d)~~] shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund.
(h-1) The clerk of a court that collects a fee paid under Subsection (f-1) for a petition filed under Subsection (d-1) shall deposit the fee to the credit of the general fund of the municipality or county, as applicable.
- (h-2) The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:
 - (1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;
 - (2) the actions taken by the department with respect to the petitions and orders received;
 - (3) the costs incurred by the department in taking those actions; and
 - (4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local intellectual and developmental disability [~~mental retardation~~] authority, or a community center providing services to persons with mental illness or intellectual or developmental disabilities [~~retardation~~];
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;

SENATE VERSION (IE)

SECTION 2.____. Same as House version. [FA1(2)]

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (17) a public or nonprofit hospital or hospital district, or a facility as defined by Section 250.001, Health and Safety Code;
- (18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;
- (19) the Texas State Board of Public Accountancy;
- (20) the Texas Department of Licensing and Regulation;
- (21) the Health and Human Services Commission;
- (22) the Department of Aging and Disability Services;
- (23) the Texas Education Agency;
- (24) the Judicial Branch Certification Commission;
- (25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Title 3, Estates Code [~~Chapter XIII, Texas Probate Code~~];
- (26) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:
 - (A) the Department of Information Resources; or
 - (B) a contractor or subcontractor of the Department of Information Resources;
- (27) the Texas Department of Insurance;
- (28) the Teacher Retirement System of Texas; and
- (29) [~~(30)~~] the Texas State Board of Pharmacy.

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

- (a) A private entity that compiles and disseminates for compensation criminal history record information shall

SENATE VERSION (IE)

CONFERENCE

SECTION 2.____. Same as House version. [FA1(2)]

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

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

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

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

SECTION 2.____. Same as House version. [FA1(2)]

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

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

SECTION 2.____. Same as House version. [FA1(2)]

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

- (a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:
 - (1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

SECTION 2.____. Same as House version. [FA1(2)]

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

No equivalent provision.

SECTION 16. 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

SENATE VERSION (IE)

SECTION 2.____. Same as House version. [FA1(2)]

SECTION 2.____. This article takes effect only if S.B. 1902, Acts of the 84th Legislature, Regular Session, 2015, does not become law. If that bill becomes law, this article has no effect. [FA1(3)]

SECTION 1.____. Same as House version.
[Moved by FA1(1)]

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

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

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

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

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

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

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

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

(m) A judge who amends a record of conviction under Subsection (l) may not modify the name of the state jail felony offense for which the judge placed the defendant on

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

community supervision. A defendant whose record of conviction is amended under Subsection (l) is not considered to have been convicted of a felony with respect to the modified offense.

(n) A record of conviction that is amended under Subsection (l) supersedes and takes the place of the record of conviction as it existed on the original date of conviction. A judge retains jurisdiction for the purposes of Subsection (l) only until the expiration of the term of community supervision.

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

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

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

SECTION 1.____. Same as House version.
[Moved by FA1(1)]

ARTICLE 3. [FA1(4)]

SECTION 3.01. Subchapter E-1, Chapter 411, Government Code, as effective September 1, 2015, is amended by adding Section 411.0729 to read as follows:

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

CONFERENCE

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

ordinance or county order.

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

(1) satisfies the requirements of Section 411.074; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code that is punishable by fine only, regardless of whether that offense is subject to an order of nondisclosure of criminal history record information granted under this subchapter or any other law.

(c) After notice to the state, the court shall hold a hearing on whether the person is entitled to file the petition and whether issuance of the order is in the best interest of justice. In determining whether granting the order is in the best interest of justice, the court may consider the person's criminal history record information among any other factors the court considers relevant. If the court determines that granting the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the fine-only misdemeanor offense that is the subject of the petition. As a condition of granting the petition under this section for a person convicted of the offense, a court may require the person to perform community service, pay a fee, or both perform the community service and pay the fee as if the person had been placed on probation pending deferred disposition under Article 45.051, Code of Criminal Procedure.

(d) A person may petition the court for an order of

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

nondisclosure of criminal history record information under this section only on or after the first anniversary of the conviction or dismissal, as applicable. [FA1(4)]

No equivalent provision.

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

(a-1) The clerk of a court that collects a fee paid under Section 411.0745 for a petition filed under Section 411.0729 shall deposit the fee to the credit of the general fund of the municipality or county, as applicable. [FA1(4)]

No equivalent provision.

SECTION 3.03. This article takes effect only if S.B. 1902, Acts of the 84th Legislature, Regular Session, 2015, becomes law. If that bill does not become law, this article has no effect. [FA1(4)]

No equivalent provision.

ARTICLE 4. [FA1(5)]

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

SECTION 4.____. Same as House version. [FA1(5)]

SECTION 19. This Act applies to a petition for an order of nondisclosure that is filed on or after the effective date of this Act, regardless of whether the misdemeanor that is the subject

SECTION 4.____. Same as House version. [FA1(5)]

House Bill 3579
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

of the petition occurred before, on, or after the effective date of this Act.

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

SECTION 21. This Act takes effect September 1, 2015.

SENATE VERSION (IE)

SECTION 4.____. Same as House version. [FA1(5)]

SECTION 4.____. Same as House version. [FA1(5)]

CONFERENCE