

By: Allen, Guillen, et al.

H.B. No. 1404

Substitute the following for H.B. No. 1404:

By: Moody

C.S.H.B. No. 1404

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of a criminal defendant for an order of nondisclosure of criminal history record information.

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

SECTION 1. Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0716 to read as follows:

Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Subsection (b), this subchapter applies to the issuance of an order of nondisclosure of criminal history record information for an offense committed before, on, or after September 1, 2017.

(b) Section 411.072 applies only to a person described by Subsection (a) of that section who receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, on or after September 1, 2017.

SECTION 2. Section 411.0735, Government Code, is amended to read as follows:

Sec. 411.0735. PROCEDURE FOR CONVICTION [~~AND CONFINEMENT~~]; CERTAIN MISDEMEANORS. (a) This section applies only to a person who:

(1) is convicted of a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; and

(2) [~~is sentenced to and serves a period of~~

1 ~~confinement, and~~

2 ~~[(3)]~~ is not eligible for an order of nondisclosure of
3 criminal history record information under Section 411.073.

4 (b) Notwithstanding any other provision of this subchapter
5 or Subchapter F, a person described by Subsection (a) who completes
6 the person's sentence ~~[period of confinement and is released]~~ may
7 petition the court that imposed the sentence for an order of
8 nondisclosure of criminal history record information under this
9 section if the person:

10 (1) satisfies the requirements of this section and
11 Section 411.074; and

12 (2) has never been previously convicted of or placed
13 on deferred adjudication community supervision for another offense
14 other than a traffic ~~[an]~~ offense that is ~~[under the Transportation~~
15 ~~Code]~~ punishable by fine only.

16 (c) After notice to the state, an opportunity for a hearing,
17 and a determination that the person is entitled to file the petition
18 and issuance of the order is in the best interest of justice, the
19 court shall issue an order prohibiting criminal justice agencies
20 from disclosing to the public criminal history record information
21 related to the offense for which the person was convicted ~~[giving~~
22 ~~rise to the confinement]~~.

23 (d) A person may petition the court that imposed the
24 sentence for an order of nondisclosure of criminal history record
25 information under this section only on or after the second
26 anniversary of the date of completion of the person's sentence
27 ~~[period of confinement]~~.

1 SECTION 3. Section 411.074, Government Code, is amended to
2 read as follows:

3 Sec. 411.074. REQUIRED CONDITIONS FOR RECEIVING AN ORDER OF
4 NONDISCLOSURE. (a) A person may be granted an order of
5 nondisclosure of criminal history record information under this
6 subchapter and, when applicable, is entitled to petition the court
7 to receive an order under this subchapter only if, during the period
8 after the court pronounced the sentence or placed the person on
9 community supervision, including deferred adjudication community
10 supervision, for the offense for which the order of nondisclosure
11 is requested, and during any applicable waiting period that this
12 subchapter requires for the person after completion of the person's
13 sentence or community supervision, including deferred adjudication
14 community supervision [~~required by this subchapter~~], the person is
15 not convicted of or placed on deferred adjudication community
16 supervision [~~under Subchapter C, Chapter 42A, Code of Criminal~~
17 ~~Procedure,~~] for any offense other than a traffic [~~an~~] offense that
18 is [~~under the Transportation Code~~] punishable by fine only.

19 (b) A person may not be granted an order of nondisclosure of
20 criminal history record information under this subchapter and is
21 not entitled to petition the court for an order under this
22 subchapter if:

23 (1) the person requests the order of nondisclosure
24 [~~was convicted or placed on deferred adjudication community~~
25 ~~supervision~~] for, or the person has been previously convicted of or
26 placed on [~~any other~~] deferred adjudication community supervision
27 for:

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

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

7 (C) an offense under Section 19.02, 19.03,
8 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal
9 Code; or

10 (D) any other offense involving family violence,
11 as defined by Section 71.004, Family Code; or

12 (2) the court makes an affirmative finding that the
13 offense for which the order of nondisclosure [~~of criminal history~~
14 ~~record information~~] is requested involved family violence, as
15 defined by Section 71.004, Family Code.

16 SECTION 4. Section 32, Chapter 1279 (S.B. 1902), Acts of the
17 84th Legislature, Regular Session, 2015, is repealed.

18 SECTION 5. This Act takes effect September 1, 2017.