

By: West

S.B. No. 1227

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain criminal defendants 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 411.0731 to read as follows:

Sec. 411.0731. PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; SET-ASIDE CONVICTIONS. (a) This section applies only to a person who:

(1) on conviction is placed on community supervision under Chapter 42A, Code of Criminal Procedure, and with respect to whom the conviction is subsequently set aside by the court under Article 42A.701(f) of that chapter; and

(2) is not convicted of an offense for which the person would be ineligible for deferred adjudication community supervision under Article 42A.102(b), Code of Criminal Procedure.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who satisfies the requirements of Section 411.074 may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section.

(c) After notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition

1 and that issuance of the order is in the best interest of justice,
2 the court shall issue an order prohibiting criminal justice
3 agencies from disclosing to the public criminal history record
4 information related to the offense giving rise to the community
5 supervision.

6 (d) A person may petition the court that placed the person
7 on community supervision for an order of nondisclosure of criminal
8 history record information under this section only after:

9 (1) the conviction is set aside, if the offense for
10 which the person was placed on community supervision was a
11 misdemeanor; or

12 (2) the fifth anniversary of the date the conviction
13 is set aside, if the offense for which the person was placed on
14 community supervision was a felony.

15 SECTION 2. Section 411.074, Government Code, is amended to
16 read as follows:

17 Sec. 411.074. REQUIRED CONDITIONS FOR RECEIVING AN ORDER OF
18 NONDISCLOSURE. (a) A person may be granted an order of
19 nondisclosure of criminal history record information under this
20 subchapter and, when applicable, is entitled to petition the court
21 to receive an order under this subchapter only if, during the period
22 after the court pronounced the sentence or placed the person on
23 community supervision, including deferred adjudication community
24 supervision, for the offense for which the order of nondisclosure
25 is requested, and during any applicable waiting period that this
26 subchapter requires for the person after completion of the person's
27 sentence or community supervision, including deferred adjudication

community supervision [~~required by this subchapter~~], the person is not convicted of or placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only.

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

(1) the person requests the order of nondisclosure [~~was convicted or placed on deferred adjudication community supervision~~] for, or the person has been previously convicted of or placed on [~~any other~~] deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, for:

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

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

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

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

(2) the court makes an affirmative finding that the offense for which the order of nondisclosure of criminal history

1 record information is requested involved family violence, as
2 defined by Section 71.004, Family Code.

3 SECTION 3. The change in law made by Section 411.0731,
4 Government Code, as added by this Act, applies to a person whose
5 conviction is set aside under Article 42A.701(f), Code of Criminal
6 Procedure, on or after the effective date of this Act, regardless of
7 whether the offense for which the person was convicted was
8 committed before, on, or after the effective date of this Act.

9 SECTION 4. This Act takes effect September 1, 2017.