86R3362 JRR-D

By:  White H.B. No. 1076

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 Sections 411.0732 and 411.0737 to read as follows:

Sec. 411.0732.  PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; CERTAIN STATE JAIL FELONIES. (a) This section applies only to a person placed on community supervision under Chapter 42A, Code of Criminal Procedure:

(1)  following a conviction of a state jail felony punishable under Section 12.35(a), Penal Code; and

(2)  under a provision of Chapter 42A, Code of Criminal Procedure, other than Subchapter C, including:

(A)  a provision that requires the person to serve a term of confinement as a condition of community supervision; or

(B)  another provision that authorizes placing a person on community supervision after the person has served part of a term of confinement imposed for the offense.

(b)  Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) whose community supervision is not revoked and who completes the period of community supervision, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section if the person:

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

(2)  has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c)  Except as provided by Subsection (d), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of 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 offense giving rise to the community supervision.

(d)  A court may not issue an order of nondisclosure of criminal history record information under this section if the court determines that the offense for which the order is sought was violent or sexual in nature.

(e)  A person may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section only on or after the fifth anniversary of the date of completion of the community supervision.

Sec. 411.0737.  PROCEDURE FOR CONVICTION; CERTAIN STATE JAIL FELONIES. (a) This section applies only to a person who:

(1)  is convicted of a state jail felony punishable under Section 12.35(a), Penal Code; and

(2)  is not eligible for an order of nondisclosure of criminal history record information under Section 411.0732.

(b)  Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who completes the person's sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section if the person:

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

(2)  has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c)  Except as provided by Subsection (d), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of 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 offense for which the person was convicted.

(d)  A court may not issue an order of nondisclosure of criminal history record information under this section if the court determines that the offense for which the order is sought was violent or sexual in nature.

(e)  A person may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section only on or after the fifth anniversary of the date of completion of the person's sentence.

SECTION 2.  This Act takes effect September 1, 2019.