

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

1 and payment of all fines, costs, and restitution imposed, may
2 petition the court that placed the person on community supervision
3 for an order of nondisclosure of criminal history record
4 information under this section if the person:

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

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

10 (c) Except as provided by Subsection (d), after notice to
11 the state, an opportunity for a hearing, and a determination that
12 the person is entitled to file the petition and issuance of the
13 order is in the best interest of justice, the court shall issue an
14 order prohibiting criminal justice agencies from disclosing to the
15 public criminal history record information related to the offense
16 giving rise to the community supervision.

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

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

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

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

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

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

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

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

17 (c) Except as provided by Subsection (d), after notice to
18 the state, an opportunity for a hearing, and a determination that
19 the person is entitled to file the petition and issuance of the
20 order is in the best interest of justice, the court shall issue an
21 order prohibiting criminal justice agencies from disclosing to the
22 public criminal history record information related to the offense
23 for which the person was convicted.

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

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

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