

By: Thompson of Harris

H.B. No. 1216

A BILL TO BE ENTITLED

AN ACT

relating to orders of nondisclosure for certain victims of trafficking of persons or compelling prostitution.

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

SECTION 1. Section 411.0728, Government Code, is amended to read as follows:

Sec. 411.0728. PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING OF PERSONS. (a) This section applies only to a person:

(1) who is convicted of or placed on deferred adjudication community supervision [~~under Chapter 42A, Code of Criminal Procedure, after conviction~~] for an offense under:

(A) Section 481.120, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(B) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(C) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(1) or (2); or

(D) Section 43.02, Penal Code; [~~or~~

~~(E) Section 43.03(a)(2), Penal Code, if the offense is punishable as a Class A misdemeanor,~~] and

(2) who, if requested by the applicable law enforcement agency or prosecuting attorney to provide assistance in the investigation or prosecution of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense

1 containing elements that are substantially similar to the elements
2 of an offense under any of those sections:

3 (A) provided assistance in the investigation or
4 prosecution of the offense; or

5 (B) did not provide assistance in the
6 investigation or prosecution of the offense due to the person's age
7 or a physical or mental disability resulting from being a victim of
8 an offense described by this subdivision [~~with respect to whom the~~
9 ~~conviction is subsequently set aside by the court under Article~~
10 ~~42A.701, Code of Criminal Procedure~~].

11 (b) Notwithstanding any other provision of this subchapter
12 or Subchapter F, a person described by Subsection (a) [~~who~~
13 ~~satisfies the requirements of Section 411.074~~] may petition the
14 court that convicted the person or placed the person on deferred
15 adjudication community supervision for an order of nondisclosure of
16 criminal history record information under this section on the
17 grounds that the person committed the offense solely as a victim of
18 an offense under Section 20A.02, 20A.03, or 43.05, Penal Code
19 [~~trafficking of persons~~].

20 (b-1) A petition under Subsection (b) must:

21 (1) be in writing;

22 (2) assert that the person seeking an order of
23 nondisclosure under this section has not previously received an
24 order of nondisclosure under this section; and

25 (3) allege specific facts that, if proved, would
26 establish that the petitioner committed the offense described by
27 Subsection (a)(1) solely as a victim of an offense under Section

1 20A.02, 20A.03, or 43.05, Penal Code.

2 (b-2) A person convicted of or placed on deferred
3 adjudication community supervision for more than one offense
4 described by Subsection (a)(1) that the person committed solely as
5 a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal
6 Code, may request consolidation of the person's petitions for an
7 order of nondisclosure of criminal history record information in
8 the court of the person's most recent conviction or placement on
9 deferred adjudication community supervision. On receipt of a
10 request for consolidation, the court shall consolidate the
11 petitions and exercise jurisdiction over the petitions, regardless
12 of the county in which the offenses described by Subsection (a)(1)
13 occurred.

14 (b-3) On the filing of the petition under Subsection (b),
15 the clerk of the court shall promptly serve a copy of the petition
16 and any supporting document on the appropriate office of the
17 attorney representing the state. Any response to the petition by
18 the attorney representing the state must be filed not later than the
19 20th business day after the date of service under this subsection.

20 (c) After notice to the state, an opportunity for a hearing,
21 a determination by the court that the person has not previously
22 received an order of nondisclosure under this section, and a
23 determination by the court that the person committed the offense
24 described by Subsection (a)(1) solely as a victim of an offense
25 under Section 20A.02, 20A.03, or 43.05, Penal Code, [~~trafficking of~~
26 persons] and that issuance of the order is in the best interest of
27 justice, the court shall issue an order prohibiting criminal

1 justice agencies from disclosing to the public criminal history
2 record information related to the offense [~~for which the defendant~~
3 ~~was placed on community supervision as described by Subsection~~
4 ~~(a)~~].

5 (d) A person may petition the court that convicted the
6 person or placed the person on deferred adjudication community
7 supervision for an order of nondisclosure of criminal history
8 record information under this section only on or after the first
9 anniversary of the date the person:

10 (1) completed the sentence, including any term of
11 confinement imposed and payment of all fines, costs, and
12 restitution imposed; or

13 (2) received a dismissal and discharge under Article
14 42A.111, Code of Criminal Procedure, if the person was placed on
15 deferred adjudication community supervision [~~person's conviction~~
16 ~~is set aside as described by Subsection (a)~~].

17 SECTION 2. Article 56.021, Code of Criminal Procedure, is
18 amended by adding Subsection (e) to read as follows:

19 (e) A victim of an offense under Section 20A.02, 20A.03, or
20 43.05, Penal Code, is entitled to the right to be informed that the
21 victim may petition for an order of nondisclosure of criminal
22 history record information under Section 411.0728, Government
23 Code, if the victim:

24 (1) has been convicted of or placed on deferred
25 adjudication community supervision for an offense described by
26 Subsection (a)(1) of that section; and

27 (2) committed that offense solely as a victim of an

1 offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

2 SECTION 3. Subchapter C, Chapter 72, Government Code, is
3 amended by adding Section 72.033 to read as follows:

4 Sec. 72.033. FORM FOR ORDER OF NONDISCLOSURE FOR CERTAIN
5 VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. The
6 office, in consultation with the office of the attorney general,
7 shall develop and make available an online form for use by a person
8 in filing a petition for an order of nondisclosure of criminal
9 history record information under Section 411.0728.

10 SECTION 4. Section 126.004, Government Code, is amended by
11 adding Subsection (d) to read as follows:

12 (d) A program established under this chapter shall provide
13 each program participant with information related to an order of
14 nondisclosure of criminal history record information under Section
15 411.0728.

16 SECTION 5. Not later than December 1, 2019, the Office of
17 Court Administration of the Texas Judicial System, in consultation
18 with the office of the attorney general, shall develop and make
19 available the online form required by Section 72.033, Government
20 Code, as added by this Act.

21 SECTION 6. This Act takes effect September 1, 2019.