

By: Johnson of Harris

H.B. No. 4511

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. Section 411.0725(e), Government Code, is amended to read as follows:

(e) A person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the 180th day after the date [~~second anniversary~~] of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

(3) the first [~~fifth~~] anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

SECTION 2. 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

1 FOLLOWING CONVICTION; CERTAIN NONVIOLENT FELONIES. (a) This  
2 section applies only to a person placed on community supervision  
3 under Chapter 42A, Code of Criminal Procedure:

4 (1) following a conviction of a felony other than a  
5 felony:

6 (A) listed in Article 42A.054(a), Code of  
7 Criminal Procedure;

8 (B) for which the judgment contains an  
9 affirmative finding under Article 42A.054(c) or (d), Code of  
10 Criminal Procedure;

11 (C) punishable as a felony of the second degree  
12 or a felony of the first degree under Subchapter D, Chapter 481,  
13 Health and Safety Code;

14 (D) punishable under Section 481.1122, Health  
15 and Safety Code;

16 (E) under Title 5, Penal Code;

17 (F) under Chapter 25, 29, 43, 49, or 71, Penal  
18 Code;

19 (G) under Section 28.02, 36.02, 42.072, or 42.08,  
20 Penal Code;

21 (H) punishable as a felony of the second degree  
22 or a felony of the first degree under Section 28.03, Penal Code;

23 (I) punishable as a felony of the first degree  
24 under Section 30.02, Penal Code;

25 (J) under Section 31.03 or 34.02, Penal Code,  
26 that is punishable as a felony of the third degree or any higher  
27 category of offense;

1                   (K) punishable as a felony of the second degree  
2 or a felony of the first degree under Section 38.06, Penal Code; or

3                   (L) punishable as a felony of the second degree  
4 under Section 46.14, Penal Code; and

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

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

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

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

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

22                   (2) has never been previously convicted of or placed  
23 on deferred adjudication community supervision for another offense  
24 other than:

25                   (A) a traffic offense that is punishable by fine  
26 only; or

27                   (B) an offense arising out of the criminal

1 episode during which the offense that is the subject of the petition  
2 occurred; and

3 (3) has never previously received an order of  
4 nondisclosure of criminal history record information under this  
5 subchapter or other law for an offense, other than an offense  
6 described by Subdivision (2)(A) or (B).

7 (c) After notice to the state, an opportunity for a hearing,  
8 and a determination that the person is entitled to file the petition  
9 and issuance of the order is in the best interest of justice, the  
10 court shall issue an order prohibiting criminal justice agencies  
11 from disclosing to the public criminal history record information  
12 related to the offense giving rise to the community supervision.

13 (d) A person may petition the court that placed the person  
14 on community supervision for an order of nondisclosure of criminal  
15 history record information under this section only on or after the  
16 second anniversary of the date of completion of the community  
17 supervision.

18 Sec. 411.0737. PROCEDURE FOR CONVICTION; CERTAIN  
19 NONVIOLENT FELONIES. (a) This section applies only to a person  
20 who:

21 (1) is convicted of a felony other than a felony:

22 (A) listed in Article 42A.054(a), Code of  
23 Criminal Procedure;

24 (B) for which the judgment contains an  
25 affirmative finding under Article 42A.054(c) or (d), Code of  
26 Criminal Procedure;

27 (C) punishable as a felony of the second degree

1 or a felony of the first degree under Subchapter D, Chapter 481,  
2 Health and Safety Code;

3 (D) punishable under Section 481.1122, Health  
4 and Safety Code;

5 (E) under Title 5, Penal Code;

6 (F) under Chapter 25, 29, 43, 49, or 71, Penal  
7 Code;

8 (G) under Section 28.02, 36.02, 42.072, or 42.08,  
9 Penal Code;

10 (H) punishable as a felony of the second degree  
11 or a felony of the first degree under Section 28.03, Penal Code;

12 (I) punishable as a felony of the first degree  
13 under Section 30.02, Penal Code;

14 (J) under Section 31.03 or 34.02, Penal Code,  
15 that is punishable as a felony of the third degree or any higher  
16 category of offense;

17 (K) punishable as a felony of the second degree  
18 or a felony of the first degree under Section 38.06, Penal Code; or

19 (L) punishable as a felony of the second degree  
20 under Section 46.14, Penal Code; and

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

23 (b) Notwithstanding any other provision of this subchapter  
24 or Subchapter F, a person described by Subsection (a) who completes  
25 the person's sentence, including any term of confinement imposed  
26 and payment of all fines, costs, and restitution imposed, may  
27 petition the court that imposed the sentence for an order of

1 nondisclosure of criminal history record information under this  
2 section if the person:

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

5 (2) has never been previously convicted of or placed  
6 on deferred adjudication community supervision for another offense  
7 other than:

8 (A) a traffic offense that is punishable by fine  
9 only; or

10 (B) an offense arising out of the criminal  
11 episode during which the offense that is the subject of the petition  
12 occurred; and

13 (3) has never previously received an order of  
14 nondisclosure of criminal history record information under this  
15 subchapter or other law for an offense, other than an offense  
16 described by Subdivision (2)(A) or (B).

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 third  
4 anniversary of the date of completion of the person's sentence.

5       SECTION 3. This Act takes effect September 1, 2019.