

By: Huffman

S.B. No. 1801

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 OR COMPELLING PROSTITUTION. (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 containing elements that are substantially similar to the elements of an offense under any of those sections:

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

(B) did not provide assistance in the investigation or prosecution of the offense due to the person's age or a physical or mental disability resulting from being a victim of an offense described by this subdivision ~~[with respect to whom the conviction is subsequently set aside by the court under Article 42A.701, 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(b) ~~[411.074]~~ may petition the court that convicted the person or placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section on the grounds that the person committed the offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code ~~[trafficking of persons]~~.

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

(1) be in writing;

(2) allege specific facts that, if proved, would establish that the petitioner committed the offense described by Subsection (a)(1) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code; and

(3) assert that if the person has previously submitted

1 a petition for ~~[seeking]~~ an order of nondisclosure under this  
2 section, the person has not committed an offense described by  
3 Subsection (a)(1) on or after the date on which the person's first  
4 petition ~~[previously received an order of nondisclosure]~~ under this  
5 section was submitted.

6 (b-2) On the filing of the petition under Subsection (b),  
7 the clerk of the court shall promptly serve a copy of the petition  
8 and any supporting document on the appropriate office of the  
9 attorney representing the state. Any response to the petition by  
10 the attorney representing the state must be filed not later than the  
11 20th business day after the date of service under this subsection.

12 (b-3) A person convicted of or placed on deferred  
13 adjudication community supervision for more than one offense  
14 described by Subsection (a)(1) that the person committed solely as  
15 a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal  
16 Code, may request consolidation of the person's petitions for an  
17 order of nondisclosure of criminal history record information in a  
18 district court in the county where the person was most recently  
19 convicted or placed on deferred adjudication community  
20 supervision. On receipt of a request for consolidation, the court  
21 shall consolidate the petitions and exercise jurisdiction over the  
22 petitions, regardless of the county in which the offenses described  
23 by Subsection (a)(1) occurred.

24 (b-4) A district court that consolidates petitions under  
25 Subsection (b-3) shall allow an attorney representing the state who  
26 receives a petition involving an offense that was committed outside  
27 the county in which the court is located to appear at any hearing

1 regarding the consolidated petition by telephone or video  
2 conference call.

3 (c) After notice to the state and ~~[7]~~ an opportunity for a  
4 hearing, ~~[a determination by the court that the person has not~~  
5 ~~previously received an order of nondisclosure under this section,~~  
6 ~~and a determination by the court that the person committed the~~  
7 ~~offense solely as a victim of trafficking of persons and that~~  
8 ~~issuance of the order is in the best interest of justice,~~] the court  
9 having jurisdiction over the petition shall issue an order  
10 prohibiting criminal justice agencies from disclosing to the public  
11 criminal history record information related to the offense if the  
12 court determines that:

13 (1) the person committed the offense described by  
14 Subsection (a)(1) solely as a victim of an offense under Section  
15 20A.02, 20A.03, or 43.05, Penal Code;

16 (2) if applicable, the person did not commit another  
17 offense described by Subsection (a)(1) on or after the date on which  
18 the person's first petition for an order of nondisclosure under  
19 this section was submitted; and

20 (3) issuance of the order is in the best interest of  
21 justice ~~[for which the defendant was placed on community~~  
22 ~~supervision as described by Subsection (a)].~~

23 (c-1) In determining whether a person committed an 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, the court may  
26 consider any order of nondisclosure previously granted to the  
27 person under this section.

(d) A person may petition the applicable 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 first anniversary of the date the person:

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

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

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

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

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

(2) committed that offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

SECTION 3. Section 126.004, Government Code, is amended by adding Subsection (d) to read as follows:

(d) A program established under this chapter shall provide each program participant with information related to the right to petition for an order of nondisclosure of criminal history record

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1 information under Section [411.0728](#).

2 SECTION 4. This Act takes effect September 1, 2019.