

By: Collier

H.B. No. 309

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to automatic orders of nondisclosure of criminal history  
3 record information for certain misdemeanor defendants who  
4 successfully complete a period of community supervision following  
5 conviction; authorizing a fee.

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

7 SECTION 1. Article 42.01, Code of Criminal Procedure, is  
8 amended by adding Section 16 to read as follows:

9 Sec. 16. In addition to the information described by  
10 Section 1, the judgment must reflect affirmative findings entered  
11 pursuant to Article 42A.059.

12 SECTION 2. Subchapter B, Chapter 42A, Code of Criminal  
13 Procedure, is amended by adding Article 42A.059 to read as follows:

14 Art. 42A.059. AFFIRMATIVE FINDING REGARDING AUTOMATIC  
15 ORDER OF NONDISCLOSURE. If a judge places on community supervision  
16 a defendant charged with a misdemeanor other than a misdemeanor  
17 under Section 106.041, Alcoholic Beverage Code, Section 49.04,  
18 49.05, 49.06, or 49.065, Penal Code, or Chapter 20, 21, 22, 25, 42,  
19 43, 46, or 71, Penal Code, the judge shall make an affirmative  
20 finding of fact and file a statement of that affirmative finding in  
21 the judgment in the case if the judge determines that it is not in  
22 the best interest of justice that the defendant receive an  
23 automatic order of nondisclosure under Section 411.07299,  
24 Government Code.

1 SECTION 3. Section [411.0716](#), Government Code, is amended by  
2 amending Subsection (a) and adding Subsection (c) to read as  
3 follows:

4 (a) Except as otherwise provided by this section  
5 [~~Subsection (b)~~], this subchapter applies to the issuance of an  
6 order of nondisclosure of criminal history record information for  
7 an offense committed before, on, or after September 1, 2017.

8 (c) Section 411.07299 applies only to the issuance of an  
9 order of nondisclosure of criminal history record information for  
10 an offense committed on or after September 1, 2021.

11 SECTION 4. The heading to Section [411.072](#), Government Code,  
12 is amended to read as follows:

13 Sec. 411.072. AUTOMATIC ORDER OF NONDISCLOSURE FOLLOWING  
14 COMPLETION OF [~~PROCEDURE FOR~~] DEFERRED ADJUDICATION COMMUNITY  
15 SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS.

16 SECTION 5. Subchapter [E-1](#), Chapter [411](#), Government Code, is  
17 amended by adding Section 411.07299 to read as follows:

18 Sec. 411.07299. AUTOMATIC ORDER OF NONDISCLOSURE FOLLOWING  
19 COMPLETION OF COMMUNITY SUPERVISION; CERTAIN NONVIOLENT  
20 MISDEMEANORS. (a) This section applies only to a person who:

21 (1) was placed on community supervision under Chapter  
22 [42A](#), Code of Criminal Procedure:

23 (A) following a conviction of a misdemeanor other  
24 than a misdemeanor:

25 (i) under Section [106.041](#), Alcoholic  
26 Beverage Code, Section [49.04](#), [49.05](#), [49.06](#), or [49.065](#), Penal Code,  
27 or Chapter [20](#), [21](#), [22](#), [25](#), [42](#), [43](#), [46](#), or [71](#), Penal Code; or

1                   (ii) with respect to which an affirmative  
2 finding under Article 42A.059, Code of Criminal Procedure, was  
3 filed in the judgment in the case; and

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

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

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

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

15                   (b) Notwithstanding any other provision of this subchapter  
16 or Subchapter F, if a person described by Subsection (a) completes  
17 the period of community supervision, including any term of  
18 confinement imposed and payment of all fines, costs, and  
19 restitution imposed, and satisfies the requirements of Section  
20 411.074 and if the person's community supervision is not revoked,  
21 the court that placed the person on community supervision shall  
22 issue an order of nondisclosure of criminal history record  
23 information under this subchapter prohibiting criminal justice  
24 agencies from disclosing to the public criminal history record  
25 information related to the offense giving rise to the community  
26 supervision. The court shall determine whether the person  
27 satisfies the requirements of Section 411.074, and if the court

1 makes a finding that the requirements of that section are  
2 satisfied, the court shall issue the order of nondisclosure of  
3 criminal history record information:

4 (1) on the successful completion of the community  
5 supervision, if the person completes the period of community  
6 supervision on or after the 180th day after the date the court  
7 placed the person on community supervision; or

8 (2) as soon as practicable on or after the 180th day  
9 after the date the court placed the person on community  
10 supervision, if the person completed the period of community  
11 supervision before that date.

12 (c) The person shall present to the court any evidence  
13 necessary to establish that the person is eligible to receive an  
14 order of nondisclosure of criminal history record information under  
15 this section. The person must pay a \$28 fee to the clerk of the  
16 court before the court issues the order.

17 (d) A person who is not eligible to receive an order of  
18 nondisclosure of criminal history record information under this  
19 section solely because an affirmative finding under Article  
20 42A.059, Code of Criminal Procedure, was filed in the judgment in  
21 the case may file a petition for an order of nondisclosure of  
22 criminal history record information under Section 411.073 if the  
23 person otherwise satisfies the requirements of that section.

24 SECTION 6. Section 411.073(a), Government Code, is amended  
25 to read as follows:

26 (a) This section applies only to a person who:

27 (1) was placed on community supervision under Chapter

1 42A, Code of Criminal Procedure:

2 (A) [~~(1)~~] following a conviction of a  
3 misdemeanor other than a misdemeanor under Section 106.041,  
4 Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065,  
5 Penal Code, or Chapter 71, Penal Code; and

6 (B) [~~(2)~~] under a provision of Chapter 42A, Code  
7 of Criminal Procedure, other than Subchapter C, including:

8 (i) [~~(A)~~] a provision that requires the  
9 person to serve a term of confinement as a condition of community  
10 supervision; or

11 (ii) [~~(B)~~] another provision that  
12 authorizes placing a person on community supervision after the  
13 person has served part of a term of confinement imposed for the  
14 offense; and

15 (2) is not eligible to receive an order of  
16 nondisclosure of criminal history record information under Section  
17 411.07299.

18 SECTION 7. Section 411.0735(a), Government Code, is amended  
19 to read as follows:

20 (a) This section applies only to a person who:

21 (1) is convicted of a misdemeanor other than a  
22 misdemeanor under Section 106.041, Alcoholic Beverage Code,  
23 Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71,  
24 Penal Code; and

25 (2) is not eligible for an order of nondisclosure of  
26 criminal history record information under Section 411.07299 or  
27 411.073.

1 SECTION 8. This Act takes effect September 1, 2021.