By:  A. Johnson of Harris H.B. No. 4362

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 (3) [~~(2)~~];

(2)  the first anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a state jail felony other than a state jail felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal Code;

(3)  the 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

(4) [~~(3)~~]  the third [~~fifth~~] anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony other than a state jail felony described by Subdivision (2).

SECTION 2.  The heading to Section 411.073, Government Code, is amended to read as follows:

Sec. 411.073.  PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; CERTAIN MISDEMEANORS AND STATE JAIL FELONIES.

SECTION 3.  Section 411.073, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(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)  a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; or

(B)  a state jail felony other than a state jail felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, 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.

(d)  A person may petition the 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:

(1)  the completion of the community supervision, if the offense for which the person was placed on community supervision was a misdemeanor other than a misdemeanor described by Subdivision (3) [~~(2)~~]; [~~or~~]

(2)  the first anniversary of the date of completion of the community supervision, if the offense for which the person was placed on community supervision was a state jail felony; or

(3)  the second anniversary of the date of completion of the community supervision, if the offense for which the person was placed on community supervision was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code.

(e)  A court that issues an order of nondisclosure of criminal history record information may include in the order any offense arising out of the same transaction as the offense for which the order is sought if the other offense:

(1)  satisfies the requirements for issuance of an order of nondisclosure of criminal history record information under this section or another provision of this subchapter; or

(2)  has not resulted in a conviction or a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, and is no longer pending.

SECTION 4.  The heading to Section 411.0735, Government Code, is amended to read as follows:

Sec. 411.0735.  PROCEDURE FOR CONVICTION; CERTAIN MISDEMEANORS AND STATE JAIL FELONIES.

SECTION 5.  Section 411.0735, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

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

(1)  is convicted of:

(A)  a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; or

(B)  a state jail felony other than a state jail felony under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal Code; and

(2)  is not eligible for an order of nondisclosure of criminal history record information under Section 411.073.

(d)  A person may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section only on or after:

(1)  the date of completion of the person's sentence, if the offense of which the person was convicted was a misdemeanor punishable by fine only; [~~or~~]

(2)  the first [~~second~~] anniversary of the date of completion of the person's sentence, if the offense of which the person was convicted was a misdemeanor other than a misdemeanor described by Subdivision (1) or (3)(A); or

(3)  the second anniversary of the date of completion of the person's sentence, if the offense of which the person was convicted was:

(A)  a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

(B)  a state jail felony.

(e)  A court that issues an order of nondisclosure of criminal history record information may include in the order any offense arising out of the same transaction as the offense for which the order is sought if the other offense:

(1)  satisfies the requirements for issuance of an order of nondisclosure of criminal history record information under this section or another provision of this subchapter; or

(2)  has not resulted in a conviction or a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, and is no longer pending.

SECTION 6.  Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0738 to read as follows:

Sec. 411.0738.  PROCEDURE FOR MORE THAN ONE CONVICTION. (a)  This section applies only to a person who:

(1)  has more than one conviction for an offense that is a misdemeanor or state jail felony other than:

(A)  a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; or

(B)  a state jail felony under Chapter 19, 20, 21, 22, 25, 42, 43, 46, 49, or 71, Penal Code; and

(2)  is not eligible for an order of nondisclosure of criminal history record information under Section 411.073 or 411.0735.

(b)  Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who has completed each sentence imposed, including any term of confinement or period of community supervision imposed and payment of all fines, costs, and restitution imposed, may petition any court that imposed at least one of those sentences for an order of nondisclosure of criminal history record information under this section if the person satisfies the requirements of this section and Section 411.074.

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

(d)  A court may issue an order of nondisclosure of criminal history record information under this section for a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code, other than a misdemeanor under Section 22.01 of that code, only if the person:

(1)  was placed on community supervision for the offense; and

(2)  completed the period of community supervision imposed for the offense.

(e)  A person may petition a court described by Subsection (b) for an order of nondisclosure of criminal history record information under this section only on or after:

(1)  the third anniversary of the date of the completion of all sentences imposed if the most serious offense for which the order is sought is a misdemeanor;

(2)  the fourth anniversary of the date of the completion of all sentences imposed if:

(A)  the most serious offense for which the order is sought is a state jail felony; and

(B)  the person's last sentence included a period of community supervision that the person completed; or

(3)  if neither Subdivision (1) nor (2) applies, the fifth anniversary of the date of the completion of all sentences imposed.

SECTION 7.  This Act takes effect September 1, 2023.