88R7090 JRR-D

By:  Parker S.B. No. 1012

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain victims of trafficking of persons or compelling prostitution for an order of nondisclosure of criminal history record information.

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

SECTION 1.  Sections 411.0728(a), (b), (b-1), (b-3), (c), and (c-1), Government Code, are amended to read as follows:

(a)  This section applies only to a person:

(1)  who is convicted of or placed on deferred adjudication community supervision for:

(A)  a misdemeanor [~~an offense~~] under:

(i)  Subchapter D, Chapter 481 [~~(A) Section 481.120~~], Health and Safety Code[~~, if the offense is punishable under Subsection (b)(1)~~]; or

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

[~~(C)~~]  Section 31.03 or 37.10, Penal Code[~~, if the offense is punishable under Subsection (e)(1) or (2)~~]; or

(B)  an offense under [~~(D)~~] Section 43.02 or 49.02, Penal Code; 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.

(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) 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, or in connection with being a victim of, an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

(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, or in connection with being 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 a petition for an order of nondisclosure under this section, the person has not committed an offense described by Subsection (a)(1) on or after the date on which the person's first petition under this section was submitted.

(b-3)  A person convicted of or placed on deferred adjudication community supervision for more than one offense described by Subsection (a)(1) that the person committed [~~solely~~] as a victim of, or in connection with being a victim of, an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, may file a petition for an order of nondisclosure of criminal history record information under this section with respect to each offense, and may request consolidation of those petitions, in a district court in the county where the person was most recently convicted or placed on deferred adjudication community supervision as described by this subsection. On receipt of a request for consolidation, the court shall consolidate the petitions and exercise jurisdiction over the petitions, regardless of the county in which the offenses described by Subsection (a)(1) occurred. For each offense that is the subject of a consolidated petition and that occurred in a county other than the county in which the court consolidating the petitions is located, the clerk of the court, in addition to the clerk's duties under Subsection (b-2), shall promptly serve a copy of the consolidated petition and any supporting document related to the applicable offense on the appropriate office of the attorney representing the state on behalf of the other county. Each attorney representing the state who receives a copy of a consolidated petition under this subsection may file a response to the petition in accordance with Subsection (b-2).

(c)  After notice to the state and an opportunity for a hearing, the court having jurisdiction over the petition shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense if the court determines that:

(1)  the person committed the offense described by Subsection (a)(1) [~~solely~~] as a victim of, or in connection with being a victim of, an offense under Section 20A.02, 20A.03, or 43.05, Penal Code;

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

(3)  issuance of the order is in the best interest of justice.

(c-1)  In determining whether a person committed an offense described by Subsection (a)(1) [~~solely~~] as a victim of, or in connection with being a victim of, an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, the court may consider any order of nondisclosure previously granted to the person under this section.

SECTION 2.  Article 56A.052(e), Code of Criminal Procedure, is amended 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, or in connection with being a victim of, an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

SECTION 3.  This Act takes effect September 1, 2023.