

By: Leach

H.B. No. 1737

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 following  
4 successful completion of a period of deferred adjudication  
5 community supervision.

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

7 SECTION 1. Section [411.0716](#), Government Code, is amended to  
8 read as follows:

9 Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. This [~~(a)~~  
10 ~~Except as provided by Subsection (b), this]~~ subchapter applies to  
11 the issuance of an order of nondisclosure of criminal history  
12 record information for an offense committed before, on, or after  
13 January [~~September~~] 1, 2024 [~~2017~~].

14 [~~(b) Section [411.072](#) applies only to a person described by~~  
15 ~~Subsection (a) of that section who receives a discharge and~~  
16 ~~dismissal under Article [42A.111](#), Code of Criminal Procedure, on or~~  
17 ~~after September 1, 2017.~~]

18 SECTION 2. Section [411.072](#), Government Code, is amended to  
19 read as follows:

20 Sec. 411.072. AUTOMATIC ORDER OF NONDISCLOSURE FOLLOWING  
21 COMPLETION OF [~~PROCEDURE FOR~~] DEFERRED ADJUDICATION COMMUNITY  
22 SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS. (a) A person is  
23 entitled to an order of nondisclosure of criminal history record  
24 information under this [~~This~~] section if [~~applies only to a person~~

1 ~~who~~]:

2 (1) the person was placed on deferred adjudication  
3 community supervision under Subchapter C, Chapter 42A, Code of  
4 Criminal Procedure, for a misdemeanor other than a misdemeanor:

5 (A) under:

6 (i) Section 49.04 or 49.06, Penal Code; or

7 (ii) Chapter 20, 21, 22, 25, 42, 43, 46, or  
8 71, Penal Code; or

9 (B) with respect to which an affirmative finding  
10 under Article 42A.105(f), Code of Criminal Procedure, or former  
11 Section 5(k), Article 42.12, Code of Criminal Procedure, was filed  
12 in the papers of the case; ~~and~~

13 (2) the person received a dismissal and discharge  
14 under Article 42A.111, Code of Criminal Procedure, for the offense  
15 described by Subdivision (1);

16 (3) at least 180 days have elapsed from the date the  
17 person was placed on deferred adjudication community supervision  
18 for the offense described by Subdivision (1);

19 (4) the person satisfies the requirements of Section  
20 411.074;

21 (5) the person has never been previously convicted of  
22 or placed on deferred adjudication community supervision for  
23 another offense other than a traffic offense that is punishable by  
24 fine only; and

25 (6) the person has not received an order of  
26 nondisclosure of criminal history record information under this  
27 section.

1           (b) Not later than the 15th day of each month, the  
2 department shall:

3                 (1) review the records in the department's  
4 computerized criminal history system and, based on the relevant  
5 information present in the system, identify each person who meets  
6 the criteria provided by Subsection (a); and

7                 (2) provide notice and a list to the clerk of the  
8 applicable court that placed each person identified under  
9 Subdivision (1) on deferred adjudication community supervision  
10 indicating that each person may be entitled to an order of  
11 nondisclosure of criminal history record information under this  
12 section.

13           (c) For purposes of identifying persons under Subsection  
14 (b)(1), if the computerized criminal history system or applicable  
15 court records do not indicate whether a person received a dismissal  
16 and discharge, the person is considered to satisfy the requirements  
17 of Subsection (a)(2) if:

18                 (1) the applicable court records do not contain an  
19 order revoking the person's deferred adjudication community  
20 supervision; and

21                 (2) the date on which the period of deferred  
22 adjudication community supervision imposed in the person's case  
23 expires has elapsed.

24           (d) Notwithstanding any other provision of this subchapter  
25 or Subchapter F, if a [person described by Subsection (a) receives a  
26 discharge and dismissal under Article 42A.111, Code of Criminal  
27 Procedure, and satisfies the requirements of Section 411.074, the]

1 court that placed a [the] person on deferred adjudication community  
2 supervision receives notice from the department under Subsection  
3 (b) applicable to the person, the court shall, as soon as  
4 practicable after the receipt of the notice, issue an order of  
5 nondisclosure of criminal history record information under this  
6 subchapter prohibiting criminal justice agencies from disclosing  
7 to the public criminal history record information related to the  
8 offense giving rise to the deferred adjudication community  
9 supervision. ~~[The court shall determine whether the person~~  
10 ~~satisfies the requirements of Section 411.074, and if the court~~  
11 ~~makes a finding that the requirements of that section are~~  
12 ~~satisfied, the court shall issue the order of nondisclosure of~~  
13 ~~criminal history record information.~~

14 ~~[(1) at the time the court discharges and dismisses~~  
15 ~~the proceedings against the person, if the discharge and dismissal~~  
16 ~~occurs on or after the 180th day after the date the court placed the~~  
17 ~~person on deferred adjudication community supervision, or~~

18 ~~[(2) as soon as practicable on or after the 180th day~~  
19 ~~after the date the court placed the person on deferred adjudication~~  
20 ~~community supervision, if the discharge and dismissal occurred~~  
21 ~~before that date.]~~

22 (e) A [(c) The] person who is entitled to an order of  
23 nondisclosure of criminal history record information under this  
24 section but who is not identified by the department under  
25 Subsection (b) may [shall] present to the court that placed the  
26 person on deferred adjudication community supervision any evidence  
27 necessary to establish that the person is entitled ~~[eligible]~~ to

1 receive an order of nondisclosure of criminal history record  
2 information under this section. The court shall prescribe the  
3 manner in which the person may present the evidence to the court  
4 under this subsection. The court shall determine whether the  
5 person satisfies the requirements of this section, and if the court  
6 makes a finding that the requirements of this section are  
7 satisfied, the court shall issue an order of nondisclosure of  
8 criminal history record information under Subsection (d) as soon as  
9 practicable after making the finding.

10 (f) Notwithstanding any other law, a [The] person who is  
11 entitled to an order of nondisclosure of criminal history record  
12 information under this section may not be required to [must] pay any  
13 [a \$28] fee relating to the issuance of [to the clerk of the court  
14 before the court issues] the order.

15 (g) [~~(d)~~] A person who is not entitled [eligible] to receive  
16 an order of nondisclosure of criminal history record information  
17 under this section solely because an affirmative finding under  
18 Article 42A.105(f), Code of Criminal Procedure, or former Section  
19 5(k), Article 42.12, Code of Criminal Procedure, was filed in the  
20 papers of the case may file a petition for an order of nondisclosure  
21 of criminal history record information under Section 411.0725 if  
22 the person otherwise satisfies the requirements of that section.

23 SECTION 3. Section 411.0725(a), Government Code, is amended  
24 to read as follows:

25 (a) This section applies only to a person placed on deferred  
26 adjudication community supervision under Subchapter C, Chapter  
27 42A, Code of Criminal Procedure, who:

1           (1) is not entitled [~~eligible~~] to receive an order of  
2 nondisclosure of criminal history record information under Section  
3 411.072; and

4           (2) was placed on deferred adjudication community  
5 supervision for an offense other than an offense under Section  
6 [49.04](#) or [49.06](#), Penal Code.

7           SECTION 4. This Act takes effect January 1, 2024.