By: Leach H.B. No. 370

A BILL TO BE ENTITLED

AN ACT

relating to automatic orders of nondisclosure of criminal history record information for certain misdemeanor defendants following successful completion of a period of deferred adjudication community supervision.

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

SECTION 1. Article 66.102(e), Code of Criminal Procedure, is amended to read as follows:

(e) Information in the computerized criminal history system relating to the disposition of a case other than a rejected case must include:

(1) the final pleading to each charged offense and the level of the offense;

(2) a listing of each charged offense disposed of by the court and:

(A) the date of disposition;

(B) the offense code for the disposed charge and incident number; and

(C) the type of disposition; [~~and~~]

(3) for a case in which the judge placed the defendant on deferred adjudication community supervision, whether an affirmative finding under Article 42A.105(f) or former Section 5(k), Article 42.12, was filed in the papers of the case; and

(4) for a conviction that is appealed, the final court

decision and the final disposition of the offender's case on appeal.

SECTION 2. Section 411.0716, Government Code, is amended to read as follows:

Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. [~~(a)~~] Except as provided by Section 411.072 [~~Subsection (b)~~], this subchapter applies to the issuance of an order of nondisclosure of criminal history record information for an offense committed before, on, or after September 1, 2017.

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

SECTION 3. Section 411.072, Government Code, is amended to read as follows:

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

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

(A) under:

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

(ii) Chapter 20, 21, 22, 25, 42, 43, 46, or

71, Penal Code; or

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

(2) the person received a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, on or after January 1, 1993, for the offense described by Subdivision (1);

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

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

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

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

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

(1) electronically review the records in the department's computerized criminal history system and, based on the relevant information present in the system, identify each person who satisfies the requirements of Subsection (a) and received the dismissal and discharge described by Subsection (a)(2) on or after

January 1, 2030; and

(2) electronically provide notice in the manner prescribed by the Office of Court Administration of the Texas Judicial System to the clerk of the applicable court for each person identified under Subdivision (1) indicating that the person satisfies the requirements for an order of nondisclosure of criminal history record information under this section.

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

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

(2) the expiration date for the period of deferred adjudication community supervision imposed in the person's case has passed.

(d) Notwithstanding any other provision of this subchapter or Subchapter F, if a [~~person described by Subsection (a) receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, and satisfies the requirements of Section 411.074, the~~] court that placed a [~~the~~] person on deferred adjudication community supervision receives notice from the department under Subsection (b) or (e) applicable to the person, the court shall, not later than the 15th business day after the receipt of the notice, issue an order of nondisclosure of criminal history record information under

this subchapter prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision. [~~The court shall determine whether the person satisfies the requirements of Section 411.074, and if the court makes a finding that the requirements of that section are satisfied, the court shall issue the order of nondisclosure of criminal history record information:~~

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

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

(e) A person who received a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, on or after January 1, 1993, may make a request to the department for a determination as to whether the person satisfies the requirements of Subsection (a). The department shall make a determination requested under this subsection based on the relevant information present in the computerized criminal history system and notify the person of the result of that determination. If the department determines the person satisfies the requirements of Subsection (a), the department shall electronically provide notice in the manner prescribed by the Office of Court Administration of the Texas Judicial System to the

clerk of the court that placed the person on deferred adjudication community supervision that [~~(c) The person shall present to the court any evidence necessary to establish that~~] the person is entitled to [~~eligible to receive~~] an order of nondisclosure of criminal history record information under this section. The department shall prescribe and make publicly available on the department's Internet website the manner in which a person may request a determination under this subsection.

(f) In addition to the procedures provided by Subsections (b) and (e), a person may present to the court that placed the person on deferred adjudication community supervision any evidence necessary to establish that the person is entitled to an order of nondisclosure of criminal history record information under this section. The court shall prescribe the manner in which the person may present the evidence to the court under this subsection. The court shall determine whether the person satisfies the requirements of Subsection (a), and if the court makes a finding that the requirements of that subsection are satisfied, the court shall issue an order of nondisclosure of criminal history record information under this subchapter prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision.

(g) Notwithstanding any other law, a [~~The~~] person who is entitled to an order of nondisclosure of criminal history record information under this section may not be required to [~~must~~] pay any [~~a $28~~] fee relating to the issuance of [~~to the clerk of the court~~

~~before the court issues~~] the order.

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

SECTION 4. Section 411.0725(a), Government Code, is amended to read as follows:

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

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

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

SECTION 5. Not later than September 1, 2029, the Office of Court Administration of the Texas Judicial System shall confer with the Department of Public Safety regarding the content of the electronic notices provided under Section 411.072(b)(2), Government Code, as amended by this Act, and Section 411.072(e), Government Code, as added by this Act.

SECTION 6. (a) Except as provided by Subsection (b) of this

section, this Act takes effect January 1, 2030.

(b) Section 5 of this Act takes effect September 1, 2027.