By: Miles S.B. No. 408

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 (2);

(2) the 180th day after the date [~~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

(3) the first [~~fifth~~] anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

SECTION 2. Subchapter E-1, Chapter 411, Government Code, is amended by adding Sections 411.0732 and 411.0737 to read as follows:

Sec. 411.0732. PROCEDURE FOR COMMUNITY SUPERVISION

FOLLOWING CONVICTION; CERTAIN NONVIOLENT FELONIES. (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 felony other than a felony:

(A) listed in Article 42A.054(a), Code of Criminal Procedure;

(B) for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(C) punishable as a felony of the second degree or a felony of the first degree under Subchapter D, Chapter 481, Health and Safety Code;

(D) punishable under Section 481.1122, Health and Safety Code;

(E) under Title 5, Penal Code;

(F) under Chapter 25, 29, 43, 49, or 71, Penal Code;

(G) under Section 28.02, 36.02, 42.072, or 42.08, Penal Code;

(H) punishable as a felony of the second degree or a felony of the first degree under Section 28.03, Penal Code;

(I) punishable as a felony of the first degree under Section 30.02, Penal Code;

(J) under Section 31.03 or 34.02, Penal Code, that is punishable as a felony of the third degree or any higher category of offense;

(K) punishable as a felony of the second degree or a felony of the first degree under Section 38.06, Penal Code; or

(L) punishable as a felony of the second degree under Section 46.14, 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.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) whose community supervision is not revoked and who completes the period of community supervision, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074;

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than:

(A) a traffic offense that is punishable by fine only; or

(B) an offense arising out of the criminal

episode during which the offense that is the subject of the petition occurred; and

(3) has never previously received an order of nondisclosure of criminal history record information under this subchapter or other law for an offense, other than an offense described by Subdivision (2)(A) or (B).

(c) 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 offense giving rise to the community supervision.

(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 the second anniversary of the date of completion of the community supervision.

Sec. 411.0737. PROCEDURE FOR CONVICTION; CERTAIN NONVIOLENT FELONIES. (a) This section applies only to a person who:

(1) is convicted of a felony other than a felony:

(A) listed in Article 42A.054(a), Code of Criminal Procedure;

(B) for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(C) punishable as a felony of the second degree

or a felony of the first degree under Subchapter D, Chapter 481, Health and Safety Code;

(D) punishable under Section 481.1122, Health and Safety Code;

(E) under Title 5, Penal Code;

(F) under Chapter 25, 29, 43, 49, or 71, Penal Code;

(G) under Section 28.02, 36.02, 42.072, or 42.08, Penal Code;

(H) punishable as a felony of the second degree or a felony of the first degree under Section 28.03, Penal Code;

(I) punishable as a felony of the first degree under Section 30.02, Penal Code;

(J) under Section 31.03 or 34.02, Penal Code, that is punishable as a felony of the third degree or any higher category of offense;

(K) punishable as a felony of the second degree or a felony of the first degree under Section 38.06, Penal Code; or

(L) punishable as a felony of the second degree under Section 46.14, Penal Code; and

(2) is not eligible for an order of nondisclosure of criminal history record information under Section 411.0732.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who completes the person's sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that imposed the sentence for an order of

nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074;

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than:

(A) a traffic offense that is punishable by fine only; or

(B) an offense arising out of the criminal episode during which the offense that is the subject of the petition occurred; and

(3) has never previously received an order of nondisclosure of criminal history record information under this subchapter or other law for an offense, other than an offense described by Subdivision (2)(A) or (B).

(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 offense for which the person was convicted.

(d) A court may not issue an order of nondisclosure of criminal history record information under this section if the court determines that the offense for which the order is sought was violent or sexual in nature.

(e) 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 the third anniversary of the date of completion of the person's sentence.

SECTION 3. This Act takes effect September 1, 2027.