

1-1 By: Perry S.B. No. 1902  
1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 27, 2015, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 1; April 27, 2015,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman		X	
1-11	Burton	X		
1-12	Creighton	X		
1-13	Hinojosa	X		
1-14	Menéndez	X		
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1902 By: Perry

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the eligibility of criminal defendants for an order of  
1-20 nondisclosure of criminal history record information; authorizing  
1-21 a fee.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 411, Government Code, is amended by  
1-24 adding Subchapter E-1 to read as follows:

1-25 SUBCHAPTER E-1. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY RECORD  
1-26 INFORMATION

1-27 Sec. 411.071. DEFINITIONS. In this subchapter, "criminal  
1-28 history record information," "criminal justice agency," and  
1-29 "criminal justice purpose" have the meanings assigned by Section  
1-30 411.082.

1-31 SECTION 2. Section 411.081(f), Government Code, is  
1-32 transferred to Subchapter E-1, Chapter 411, Government Code, as  
1-33 added by this Act, redesignated as Section 411.0715, Government  
1-34 Code, and amended to read as follows:

1-35 Sec. 411.0715. DEFINITION OF DEFERRED ADJUDICATION  
1-36 COMMUNITY SUPERVISION FOR PURPOSE OF RECEIVING ORDER OF  
1-37 NONDISCLOSURE. [(f)] For purposes of an order of nondisclosure of  
1-38 criminal history record information under this subchapter  
1-39 [Subsection (a)], a person is considered to have been placed on  
1-40 deferred adjudication community supervision if, regardless of the  
1-41 statutory authorization:

1-42 (1) the person entered a plea of guilty or nolo  
1-43 contendere;

1-44 (2) the judge deferred further proceedings without  
1-45 entering an adjudication of guilt and placed the person under the  
1-46 supervision of the court or an officer under the supervision of the  
1-47 court; and

1-48 (3) at the end of the period of supervision the judge  
1-49 dismissed the proceedings and discharged the person.

1-50 SECTION 3. Subchapter E-1, Chapter 411, Government Code, as  
1-51 added by this Act, is amended by adding Section 411.072 to read as  
1-52 follows:

1-53 Sec. 411.072. PROCEDURE FOR DEFERRED ADJUDICATION  
1-54 COMMUNITY SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS. (a) This  
1-55 section applies only to a person placed on deferred adjudication  
1-56 community supervision under Section 5, Article 42.12, Code of  
1-57 Criminal Procedure, for a misdemeanor other than a misdemeanor  
1-58 under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code.

1-59 (b) Notwithstanding any other provision of this subchapter  
1-60 or Subchapter F, if a person described by Subsection (a) receives a

discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, and satisfies the requirements of Section 411.074, the court that placed the person on deferred adjudication community supervision 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. 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.

(c) Except as provided by Section 411.074, a person is entitled to an order of nondisclosure under Subsection (b) regardless of whether the person has been previously convicted of or placed on deferred adjudication community supervision for another offense.

(d) The person shall present to the court any evidence necessary to establish that the person is eligible to receive an order of nondisclosure of criminal history record information under this section. The person must pay a \$28 fee to the clerk of the court before the court issues the order.

SECTION 4. Section 411.081(d), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.0725, Government Code, and amended to read as follows:

Sec. 411.0725. PROCEDURE FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION; FELONIES AND CERTAIN MISDEMEANORS.

(a) This section applies only to a person placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for a felony or a misdemeanor other than a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code.

(b) ~~[(d)]~~ Notwithstanding any other provision of this subchapter or Subchapter F, if a person described by Subsection (a) ~~[is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently]~~ receives a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, and satisfies the requirements of Section 411.074 ~~[Subsection (c)]~~, the person may petition the court that placed the person ~~[defendant]~~ on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section ~~[subsection]~~.

(c) Except as provided by Section 411.074 ~~[Subsection (c)]~~, a person may petition the court for an order of nondisclosure under this section regardless of whether the person has been previously convicted of or placed on deferred adjudication community supervision for another offense.

(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 giving rise to the deferred adjudication community supervision.

(e) ~~[A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order.]~~ 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 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~~

~~(2) [(3)] the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.~~

SECTION 5. Subchapter E-1, Chapter 411, Government Code, as added by this Act, is amended by adding Sections 411.073 and 411.0735 to read as follows:

Sec. 411.073. PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; CERTAIN MISDEMEANORS. (a) This section applies only to a person placed on community supervision under Article 42.12, Code of Criminal Procedure:

(1) following a conviction of a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.05, 49.06, or 49.065, Penal Code; and

(2) under a provision of Article 42.12, Code of Criminal Procedure, other than Section 5, 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 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; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code that is punishable by fine only.

(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:

(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 (2); or

(2) 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.

Sec. 411.0735. PROCEDURE FOR CONVICTION AND CONFINEMENT; CERTAIN MISDEMEANORS. (a) This section applies only to a person who:

(1) is convicted of a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.05, 49.06, or 49.065, Penal Code;

(2) is sentenced to and serves a period of confinement; and

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

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who completes the period of confinement and is released 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; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code punishable by fine only.

(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 confinement.

(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 the second anniversary of the date of completion of the period of confinement.

SECTION 6. Section 411.081(e), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.074, Government Code, and amended to read as follows:

Sec. 411.074. REQUIRED CONDITIONS FOR RECEIVING AN ORDER OF NONDISCLOSURE. (a) ~~[(e)]~~ A person may be granted an order of nondisclosure of criminal history record information under this subchapter and, when applicable, is entitled to petition the court to receive an order under this subchapter ~~[Subsection (d)]~~ only if, during the period after the court pronounced the sentence or placed the person on ~~[of the]~~ deferred adjudication community supervision for the offense for which the order of nondisclosure is requested, and during any ~~[the]~~ applicable waiting period after completion of the sentence or deferred adjudication community supervision required ~~[described]~~ by this subchapter ~~[Subsection (d)(1), (2), or (3), as appropriate]~~, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only.

(b) A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order under this subchapter ~~[Subsection (d)]~~ if:

(1) the person was convicted or placed on ~~[the]~~ deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication community supervision for:

(A) ~~[(1)]~~ an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(B) ~~[(2)]~~ an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(C) ~~[(3)]~~ an offense under Section 19.02, 19.03, 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(D) ~~[(4)]~~ any other offense involving family violence, as defined by Section 71.004, Family Code; or

(2) the court makes an affirmative finding that the offense for which the order of nondisclosure of criminal history record information is requested involved family violence, as defined by Section 71.004, Family Code.

SECTION 7. Section 411.081(f-1), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.0745, Government Code, and amended to read as follows:

Sec. 411.0745. PETITION AND ORDER. (a) ~~[(f-1)]~~ A person



who petitions the court for an order of nondisclosure of criminal history record information under this subchapter, when a petition is required, ~~[Subsection (d)]~~ may file the petition in person, electronically, or by mail.

(b) The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition.

(c) The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition.

(d) The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website.

(e) On receipt of a petition under this section ~~[subsection]~~, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure of criminal history record information, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that:  
(A) the person ~~[defendant]~~ is entitled to file the petition; and

(B) the order is in the best interest of justice.  
SECTION 8. Sections 411.081(g), (g-1), (g-1a), (g-1b), and (g-1c), Government Code, are transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.075, Government Code, and amended to read as follows:

Sec. 411.075. PROCEDURE AFTER ORDER. (a) ~~[(g)]~~ Not later than the 15th business day after the date an order of nondisclosure of criminal history record information is issued under this subchapter ~~[section]~~, the clerk of the court shall send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to the Crime Records Service of the department ~~[Department of Public Safety]~~.

(b) ~~[(g-1)]~~ Not later than 10 business days after receipt of relevant criminal history record information contained in an order or a copy of an order under Subsection (a) ~~[(g)]~~, the department ~~[Department of Public Safety]~~ shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to all:

(1) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(2) central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department or that otherwise are likely to have criminal history record information that is subject to the order.

(c) ~~[(g-1a)]~~ The director shall adopt rules regarding minimum standards for the security of secure electronic mail, electronic transmissions, and facsimile transmissions under Subsections (a) ~~[(g)]~~ and (b) ~~[(g-1)]~~. In adopting rules under this subsection, the director shall consult with the Office of Court Administration of the Texas Judicial System.

(d) ~~[(g-1b)]~~ Not later than 30 business days after receipt of relevant criminal history record information contained in an order or a copy of an order from the department ~~[Department of Public Safety]~~ under Subsection (b) ~~[(g-1)]~~, an individual or entity described by Subsection (b)(1) ~~[(g-1)(1)]~~ shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.

(e) ~~[(g-1c)]~~ The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing relevant criminal history record information contained in an order or a copy of an order under Subsection (b)(3) ~~[(g-1)(3)]~~ to the entity.

SECTION 9. Section 411.081(g-2), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.0755, Government Code, and amended to read as follows:

Sec. 411.0755. STATEMENT IN APPLICATION FOR EMPLOYMENT, INFORMATION, OR LICENSING. ~~[(g-2)]~~ A person whose criminal history record information is the subject of an order of nondisclosure of criminal history record information issued ~~[has been sealed]~~ under this subchapter ~~[section]~~ is not required in any application for employment, information, or licensing to state that the person has been the subject of any criminal proceeding related to the information that is the subject of the ~~[an]~~ order ~~[issued under this section]~~.

SECTION 10. Section 411.081(g-3), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.076, Government Code, and amended to read as follows:

Sec. 411.076. DISCLOSURE BY COURT. (a) ~~[(g-3)]~~ A court may not disclose to the public any information contained in the court records that is the subject of an order of nondisclosure of criminal history record information issued under this subchapter ~~[section]~~. The court may disclose information contained in the court records that is the subject of an order of nondisclosure of criminal history record information only to:

(1) criminal justice agencies for criminal justice or regulatory licensing purposes;

(2) ~~[(g-3)]~~ ~~[to]~~ an agency or entity listed in Section 411.0765; ~~[Subsection (i),]~~ or

(3) ~~[(g-3)]~~ ~~[to]~~ the person who is the subject of the order.

(b) The clerk of the court issuing an order of nondisclosure of criminal history record information under this subchapter ~~[section]~~ shall seal any court records containing information that is the subject of the order as soon as practicable after the date the clerk of the court sends all relevant criminal history record information contained in the order or a copy of the order to the department ~~[Department of Public Safety]~~ under Section 411.075(a) ~~[Subsection (g)]~~.

SECTION 11. Section 411.081(i), Government Code, as amended by Chapters 42 (S.B. 966), 266 (H.B. 729), and 583 (S.B. 869), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted, transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.0765, Government Code, and amended to read as follows:

Sec. 411.0765. DISCLOSURE BY CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter only to:

(1) other criminal justice agencies for criminal justice or regulatory licensing purposes;

(2) an agency or entity listed in Subsection (b); or

(3) the person who is the subject of the order.

(b) ~~[(i)]~~ A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter ~~[Subsection (d)]~~ to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local intellectual and developmental disability ~~[mental retardation]~~ authority, or a community center providing services to persons with mental illness or intellectual or developmental disabilities ~~[retardation]~~;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district, or a facility as defined by Section 250.001, Health and Safety Code;
- (18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;
- (19) the Texas State Board of Public Accountancy;
- (20) the Texas Department of Licensing and Regulation;
- (21) the Health and Human Services Commission;
- (22) the Department of Aging and Disability Services;
- (23) the Texas Education Agency;
- (24) the Judicial Branch Certification Commission;
- (25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Title 3, Estates ~~[Chapter XIII, Texas Probate]~~ Code;
- (26) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:
  - (A) the Department of Information Resources; or
  - (B) a contractor or subcontractor of the Department of Information Resources;
- (27) the Texas Department of Insurance;
- (28) the Teacher Retirement System of Texas; and
- (29) ~~[(30)]~~ the Texas State Board of Pharmacy.

SECTION 12. Section 411.081(h), Government Code, is transferred to Subchapter E-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.077, Government Code, and amended to read as follows:

Sec. 411.077. DISPOSITION OF FEE; DEPARTMENT OF PUBLIC SAFETY REPORT. (a) ~~[(h)]~~ The clerk of a court that collects a fee in connection with a petition or order for nondisclosure of criminal history record information under this subchapter ~~[Subsection (d)]~~ shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund.



(b) The department [~~Department of Public Safety~~] shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure of criminal history record information and orders of nondisclosure of criminal history record information received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received;

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure of criminal history record information and who became the subject of criminal charges for an offense committed after the order was issued.

SECTION 13. Subchapter E-1, Chapter 411, Government Code, as added by this Act, is amended by adding Section 411.0775 to read as follows:

Sec. 411.0775. ADMISSIBILITY AND USE OF CERTAIN CRIMINAL HISTORY RECORD INFORMATION IN SUBSEQUENT CRIMINAL PROCEEDING. Notwithstanding any other law, criminal history record information that is related to a conviction and is the subject of an order of nondisclosure of criminal history record information under this subchapter may be:

(1) admitted into evidence during the trial of any subsequent offense if the information is admissible under the Texas Rules of Evidence or another law; and

(2) disclosed to a prosecuting attorney for a criminal justice purpose.

SECTION 14. Section 109.005(a), Business & Commerce Code, is amended to read as follows:

(a) A business entity may not publish any criminal record information in the business entity's possession with respect to which the business entity has knowledge or has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411 [~~Section 411.081(d)~~], Government Code.

SECTION 15. Article 42.03, Code of Criminal Procedure, is amended by adding Section 5 to read as follows:

Sec. 5. Except as otherwise provided by Section 5(a-1), Article 42.12, the court after pronouncing the sentence shall inform the defendant of the defendant's right to petition the court for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, unless the defendant is ineligible to pursue that right because of the requirements that apply to obtaining the order in the defendant's circumstances, such as:

(1) the nature of the offense for which the defendant is convicted; or

(2) the defendant's criminal history.

SECTION 16. Sections 5(a-1) and (c-1), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a-1) Before placing a defendant on deferred adjudication community supervision under this section, the court shall inform the defendant of the defendant's right to receive or petition the court for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411 [~~Section 411.081~~], Government Code, as applicable, unless the defendant is ineligible for an order [~~to pursue that right~~] because of:

(1) the nature of the offense for which the defendant is placed on deferred adjudication community supervision; or

(2) the defendant's criminal history.

(c-1) A judge who dismisses the proceedings against a defendant and discharges the defendant under Subsection (c):

(1) shall[+]

~~[(1)]~~ provide the defendant with a copy of the order of



dismissal and discharge; and

(2) if the judge determines that the defendant is or may become eligible for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, shall, as applicable:

(A) grant an order of nondisclosure of criminal history record information to the defendant;

(B) inform the defendant of the defendant's eligibility to receive an order of nondisclosure of criminal history record information without a petition and the earliest date on which the defendant is eligible to receive the order; or

(C) [7] inform the defendant of the defendant's eligibility to petition the court for an order of nondisclosure of criminal history record information [under Section 411.081, Government Code,] and the earliest date the defendant is eligible to file the petition for the order [of nondisclosure].

SECTION 17. Section 54.656(a), Government Code, is amended to read as follows:

(a) A judge may refer to a magistrate any criminal case for proceedings involving:

(1) a negotiated plea of guilty before the court;  
 (2) a bond forfeiture;  
 (3) a pretrial motion;  
 (4) a postconviction writ of habeas corpus;  
 (5) an examining trial;  
 (6) an occupational driver's license;  
 (7) an agreed order of expunction under Chapter 55, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) an agreed order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411 [Section 411.081];

(10) a hearing on a motion to revoke probation; and

(11) any other matter the judge considers necessary and proper.

SECTION 18. Section 103.0211, Government Code, is amended to read as follows:

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . \$3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . \$3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . \$3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . \$15 or, in specified counties, \$30;

(3) a speedy trial rights waiver motion filing fee in El Paso County (Sec. 54.745, Government Code) . . . \$100;

(4) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:

(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;

(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;

(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;

(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees; and

(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees;

(5) an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than \$25 and not more than \$60 per month; and

(6) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Subchapter E-1, Chapter 411 [~~Sec. 411.081~~], Government Code) . . . \$28.

SECTION 19. Section 123.001(b), Government Code, is amended to read as follows:

(b) If a defendant successfully completes a drug court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, [~~Section 411.081~~] as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(2) is not convicted for any felony offense between the date on which the defendant successfully completed the program and the second anniversary of that date.

SECTION 20. Section 411.081(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings[~~except as provided by Subsection (g-3)~~];

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

SECTION 21. Section 411.083(a), Government Code, is amended to read as follows:

(a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter or Subchapter E-1, may not be disseminated by the department.

SECTION 22. Section 411.0835, Government Code, is amended to read as follows:

Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO CERTAIN PRIVATE ENTITIES. If the department receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed three or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of expunction has been issued under Article 55.02, Code of Criminal Procedure, or an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

SECTION 23. Section 411.0851(a), Government Code, is

amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1 [Section 411.081(a)].

SECTION 24. Sections 411.087(a) and (b), Government Code, are amended to read as follows:

(a) Unless otherwise authorized by Subsection (e), a person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the department criminal history record information maintained by the department that relates to another person is authorized to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

(b) Any restriction or limitation in this subchapter or Subchapter E-1 on criminal history record information that a person, agency, department, political subdivision, or other entity is entitled to obtain from the department applies equally to the criminal history record information that the person, agency, department, political subdivision, or other entity is entitled to obtain from the identification division of the Federal Bureau of Investigation or other criminal justice agency.

SECTION 25. Section 411.122(c), Government Code, is amended to read as follows:

(c) This section does not apply to an agency that is:

(1) specifically authorized by this subchapter or Subchapter E-1 to obtain criminal history record information from the department; or

(2) covered by Section 53.002, Occupations Code, to the extent provided by that section.

SECTION 26. Section 552.142(a), Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure of criminal history record information with respect to the information has been issued under Subchapter E-1, Chapter 411 [Section 411.081(a)].

SECTION 27. Section 552.1425(a), Government Code, is amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411 [Section 411.081(a)].

SECTION 28. Section 169.001(b), Health and Safety Code, is amended to read as follows:

(b) If a defendant successfully completes a first offender prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time period has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411 [Section 411.081], Government Code, as

if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of a felony offense; and

(2) is not convicted of any other felony offense before the second anniversary of the defendant's successful completion of the program.

SECTION 29. Section 169A.001(b), Health and Safety Code, is amended to read as follows:

(b) If a defendant successfully completes a prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411 [Section 411.081], Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

SECTION 30. Section 53.021(e), Occupations Code, is amended to read as follows:

(e) Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide:

(1) law enforcement or public health, education, or safety services; or

(2) financial services in an industry regulated by a person listed in Section 411.0765(b)(18) [411.081(i)(19)], Government Code.

SECTION 31. The changes in law made by this Act apply only to the issuance of an order of nondisclosure of criminal history record information for an offense committed on or after the effective date of this Act. The issuance of an order of nondisclosure of criminal history record information for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 32. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 33. This Act takes effect September 1, 2015.

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