

BILL ANALYSIS

Senate Research Center
84R19112 GCB-F

H.B. 2286
By: Parker et al. (Burton)
Criminal Justice
5/20/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2286 amends current law relating to the eligibility of certain victims of trafficking of persons for an order of nondisclosure and authorizes a fee.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 109.005(a), Business & Commerce Code, as added by Chapter 1200 (S.B. No. 1289), Acts of the 83rd Legislature, Regular Session, 2013, to add a reference to Section 411.081(d-1), Government Code.

SECTION 2. Amends Section 411.081, Government Code, by adding Subsection (d-1) and amending Subsections (e), (f), (f-1), and (h), as follows:

(d-1)(1) Provides that this subsection applies only to a person who on conviction for an offense under Section 43.02 (Prostitution), Penal Code, is placed on community supervision under Article 42.12 (Community Supervision), Code of Criminal Procedure, and with respect to whom the conviction is subsequently set aside by the court under Section 20(a) (Time Credits for Completion of Certain Conditions of Community Supervision) of that article.

(2) Authorize a person, notwithstanding any other provision of this subchapter, if the person to whom this subsection applies satisfies the requirements of Subsection (e), to petition the court that placed the person on community supervision for an order of nondisclosure on the grounds that the person committed the offense solely as a victim of trafficking of persons. Requires the court, after notice to the state, an opportunity for a hearing, and a determination by the court that the person committed the offense solely as a victim of trafficking of persons and that issuance of the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense under Section 43.02, Penal Code, giving rise to the community supervision. Authorizes a criminal justice agency to disclose criminal history record information that is the subject of the order only to other criminal justice agencies for criminal justice purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. Authorizes a person to petition the court that placed the person on community supervision for an order of nondisclosure only after the person's conviction under Section 43.02, Penal Code, is set aside.

(e) Entitles a person to petition the court under Subsection (d) (authorizes the person to petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection) or (d-1) only if during the period of the community supervision, including deferred adjudication community supervision, for which the order of nondisclosure is requested and, for a petition under Subsection (d), only during the

applicable period described by Subdivision (1) (authorizing a person to petition the court that placed the person on deferred adjudication for an order of nondisclosure only on or after the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described this section) (2) (authorizing a person to petition the court that placed the person on deferred adjudication for an order of nondisclosure only on or after the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under certain chapters), or (3) (authorizing a person to petition the court that placed the person on deferred adjudication for an order of nondisclosure only on or after the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony) of that subsection, rather than Subsection (d)(1) 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. A person is not entitled to petition the court under Subsection (d) or (d-1) if the person was placed on community supervision, including deferred adjudication community supervision, for, or has been previously convicted of or placed on any other deferred adjudication for certain offenses set forth. Makes nonsubstantive changes.

(f) Adds a reference to Subsection (e).

(f-1) Adds a reference to Subsection (d-1).

(h-1) Changes a reference to Subsection (d) to Subsection (f-1) (authorizing a person to file certain petitions set forth) and adds a reference to a fee paid.

SECTION 3. Amends and reenacts 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, as follows:

(1) Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) or (d-1) to the following noncriminal justice agencies or entities only:

(1)-(11) Makes no change to these subdivisions;

(12) Changes a reference retardation to an intellectual disability;

(13)-(24) Makes no change to these subdivisions;

(25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Title 3 (Guardianship and Related Procedures), Estates Code, rather than under Chapter XIII, Texas Probate Code;

(26)-(28) Makes no change to these subdivisions;

(29) Redesignates Subdivision (30) as Subdivision (29).

SECTION 4. Amends Section 411.0851(a), Government Code, to add a reference to Section 411.081(d-1).

SECTION 5. Amends Section 552.142, Government Code, as follows:

Sec. 552.142. New heading: EXCEPTION: CONFIDENTIALITY OF RECORDS OF CERTAIN CRIMINAL HISTORY INFORMATION. (a) Adds a reference to Section 411.081(d-1).

(b) Changes a reference to arrest and prosecution to criminal proceeding.

SECTION 6. Amends Section 552.1425(a), Government Code, to add a reference to Section 411.081(d-1).

SECTION 7. Amends Section 53.021(e), Occupations Code, to change a reference to Section 411.081(i)(19) to Section 411.081(i)(18) (authorizing a criminal justice agency to disclose criminal history information to the securities commissioner, the banking commissioner, the saving and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner).

SECTION 8. Provides that the change in law made by Section 411.081(d-1), Government Code, as added by this Act, applies to a person whose conviction for an offense under Section 43.02, Penal Code, is set aside under Section 20(a), Article 42.12, Code of Criminal Procedure, on or after the effective date of this Act, regardless of when the person committed the offense for which the person was convicted.

SECTION 9. Effective date: September 1, 2015.