

Texas Senate Bill 1477

This Bill amends the Law to provide....if a person is placed on deferred adjudication community supervision and subsequently receives a discharge and dismissal and has not been convicted of certain offenses, the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure. The bill also sets out provisions that determine eligibility for a Nondisclosure Order, the amount of the Filing fee required to accompany Petition, and the agencies to whom the Nondisclosure Order is to be sent.

The bill allows a person who is granted a Nondisclosure Order to deny the occurrence of the arrest and prosecution to which the Order relates, unless the information is being used against the person in a subsequent criminal proceeding. The bill prohibits a private entity that compiles and disseminates for compensation criminal history record information from compiling or disseminating information with respect to which an order of nondisclosure has been issued and sets forth penalties for entities that fail to comply.

EFFECTIVE DATE

September 1, 2003.

AN ACT relating to restrictions on the disclosure of certain criminal records and to the duty of law enforcement agencies regarding records associated with certain defendants receiving deferred adjudication; providing a civil penalty.

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

Sections 1,2 & 3 of the Code of Criminal Procedure relate to
EXPUNGEMENT

SECTION 1. Subsection (a), Article 55.01,

SECTION 2. Subsection (a), Section 2, Article 55.02,

SECTION 3. Article 55.03,

SECTION 4. Section 411.081 , Government Code, is amended by adding Subsections (d) through (h) to read:

(d) Notwithstanding any other provision of this subchapter, if a person 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, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. After notice to the state and 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 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. A criminal justice agency may disclose criminal history record information that is the subject of the order to an individual or agency described by Section 411.083(b) (1), (2), or (3). A person may petition the court for an order of nondisclosure on payment of a \$28 fee to the clerk of the court. The payment may be made 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 the Texas Penal Code Chapter 20, 21, 22, 25, 42, 46; or
- (3) the 5th anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during the deferred probation period and the applicable period described by 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.

A person is NOT entitled to petition the court under Subsection (d) if the person has been previously convicted or placed on deferred adjudication for:

- (1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;
- (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;
- (3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; or
- (4) any other offense involving family violence, as defined by Section 71.004, Family Code.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

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

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.(g) When an order of nondisclosure is issued under this subsection, the clerk of the court shall send a copy of the order by certified mail, return receipt requested, to the

Crime Records Service of the Department of Public Safety. The Department of Public Safety shall send a copy of the order by mail or electronic means to all 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, and to all central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order.

(h) The clerk of a court that collects a fee under 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. The 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 and orders of nondisclosure 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; and
- (3) the costs incurred by the department in taking those actions.

SECTION 5 . Subchapter C, Chapter 552 of the Government Code, is amended by adding Sections 552.142 and 552.1425 to read as follows:

Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS.

(a) Information is excepted from the requirements of Section 552.021 (Public Disclosure) if an order of nondisclosure with respect to the information has been issued under Section 411.081(d).

(b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the arrest and prosecution to which the information relates and the exception of the information under this section, unless

the information is being used against the person in a subsequent criminal proceeding.

Sec. 552.1425 . CIVIL PENALTY: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS.

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which an order of nondisclosure has been issued under Section 411.081(d).

(b) A district court may issue a warning to a private entity for a first violation of Subsection (a). After receiving a warning for the first violation, the private entity is liable to the state for a civil penalty not to exceed \$500 for each subsequent violation.

(c) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(d) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 6.

(a) This Act takes effect September 1, 2003

(b) The changes in law made by this Act to Chapter 55, Code of Criminal Procedure, apply to a person seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

(c) The changes in law made by this Act to Section 411.081, Government Code, as amended by this Act, and Sections 552.142 and 552.1425, Government Code, as added by this Act, apply to information related to a deferred adjudication or similar procedure described by Subsection (f), Section 411.081, Government Code, as added by this Act, regardless of whether the deferred adjudication or procedure is entered before, on, or after the effective date of this Act.

(d) The Department of Public Safety of the State of Texas shall submit its first report to the legislature as required by Subsection (h), Section 411.081, as added by this Act, not later than December 1, 2004

Chapter 55 - Expunction
CODE OF CRIMINAL PROCEDURE

CHAPTER 55. EXPUNCTION OF CRIMINAL RECORDS

Art. 55.01. RIGHT TO EXPUNCTION. (a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; or

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest.

(a-1) Notwithstanding Subsection (a)(2)(C), a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of the Department of Public Safety under Section 2(e), Article 55.02.

(b) Except as provided by Subsection (c) of this section, a district court may expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony or

misdemeanor under the procedure established under Article 55.02 of this code if the person is:

- (1) tried for the offense for which the person was arrested;
- (2) convicted of the offense; and
- (3) acquitted by the court of criminal appeals.

(c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court or the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by Section 3.01, Penal Code, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

(d) A person is entitled to have any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to the arrest of another person expunged if:

(1) the information identifying the person asserting the entitlement to expunction was falsely given by the person arrested as the arrested person's identifying information without the consent of the person asserting the entitlement; and

(2) the only reason for the information identifying the person asserting the entitlement being contained in the arrest records and files of the person arrested is that the information was falsely given by the person arrested as the arrested person's identifying information.

Added by Acts 1977, 65th Leg., p. 1880, ch. 747, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, Sec. 1, eff. Aug. 27, 1979; Acts 1989, 71st Leg., ch. 803, Sec. 1, eff. Sept. 1, 1989; Subsec. (2) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(53), eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 7.02(a), eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1236, Sec. 1, eff. Aug. 30, 1999; Subsec. (a) amended by Acts 2001, 77th Leg., ch. 1021, Sec. 1, eff. Sept. 1, 2001; Subsec. (d) added by Acts 2001, 77th Leg., ch. 945, Sec. 1, eff. June 14, 2001; Subsec. (a) amended by Acts 2003, 78th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 2003; Subsec.

(a-1) added by Acts 2005, 79th Leg., ch. 1309, Sec. 1, eff. Sept. 1, 2005.

Art. 55.02. PROCEDURE FOR EXPUNCTION. Sec. 1. At the request of the defendant and after notice to the state, the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under article 55.01(a)(1)(a) not later than the 30th day after the date of the acquittal. Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b). The attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, or the attorney for the state, if the defendant was not represented by counsel, shall prepare the order for the court's signature.

Sec. 2. (a) A person who is entitled to expunction of records and files under Article 55.01(a) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

(1) the petitioner was arrested; or

(2) the offense was alleged to have occurred.

(b) The petition must be verified and shall include the following or an explanation for why one or more of the following is not included:

(1) the petitioner's:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number;

(F) social security number; and

(G) address at the time of the arrest;

(2) the offense charged against the petitioner;

(3) the date the offense charged against the petitioner was alleged to have been committed;

(4) the date the petitioner was arrested;

(5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;

(6) the name of the agency that arrested the petitioner;

(7) the case number and court of offense; and

(8) a list of all 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 and of all central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction.

(c) The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give to each official or agency or other entity named in the petition reasonable notice of the hearing by:

(1) certified mail, return receipt requested; or

(2) if requested in writing by the petitioner, secure electronic mail or facsimile transmission.

(c-1) An entity described by Subsection (c) may be represented by the attorney responsible for providing the entity with legal representation in other matters.

(d) If the court finds that the petitioner, or a person for whom an ex parte petition is filed under Subsection (e), is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction.

(e) The director of the Department of Public Safety or the director's authorized representative may file on behalf of a person described by Subsection (a) of this section or by Section 2a an ex parte petition for expunction in a district court for the county in which:

(1) the person was arrested; or

(2) the offense was alleged to have occurred.

(f) An ex parte petition filed under Subsection (e) must be verified and must include the following or an explanation for why one or more of the following is not included:

(1) the person's:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number;

(F) social security number; and

(G) address at the time of the arrest;

(2) the offense charged against the person;

(3) the date the offense charged against the person was alleged to have been committed;

(4) the date the person was arrested;

(5) the name of the county where the person was arrested and if the arrest occurred in a municipality, the name of the municipality;

(6) the name of the agency that arrested the person;

(7) the case number and court of offense; and

(8) a list of all 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 and of all central federal depositories of criminal records that the person has reason to believe have records or files that are subject to expunction.

Sec. 2a. (a) A person who is entitled to expunction of information contained in records and files under Article 55.01(d) may file an application for expunction with the attorney representing the state in the prosecution of felonies in the county in which the person resides.

(b) The application must be verified, include authenticated fingerprint records of the applicant, and include the following or an explanation for why one or more of the following is not included:

(1) the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time the person who falsely identified himself or herself as the applicant was arrested;

(2) the following information regarding the arrest:

(A) the date of arrest;

(B) the offense charged against the person arrested;

(C) the name of the county or municipality in which the arrest occurred; and

(D) the name of the arresting agency; and

(3) a statement that:

(A) the applicant is not the person arrested and for whom the arrest records and files were created; and

(B) the applicant did not give the person arrested consent to falsely identify himself or herself as the applicant.

(c) After verifying the allegations in an application received under Subsection (a), the attorney representing the state shall:

(1) include on the application information regarding the arrest that was requested of the applicant but was unknown by the applicant;

(2) forward a copy of the application to the district court for the county;

(3) attach to the copy a list of all 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 and of all central federal depositories of criminal records that are reasonably likely to have records or files containing information that is subject to expunction; and

(4) request the court to enter an order directing expunction based on an entitlement to expunction under Article 55.01(d).

(d) On receipt of a request under Subsection (c), the court shall, without holding a hearing on the matter, enter a final order directing expunction.

Sec. 3. (a) In an order of expunction issued under this article, the court shall require any state agency that sent information concerning the arrest to a central federal depository to request the depository to return all records and files subject to the order of expunction. The person who is the subject of the expunction order or an agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases.

(b) The order of expunction entered by the court shall have attached and incorporate by reference a copy of the judgment of acquittal and shall include:

(1) the following information on the person who is the subject of the expunction order:

(A) full name;

(B) sex;

(C) race;

(D) date of birth;

(E) driver's license number; and

(F) social security number;

(2) the offense charged against the person who is the subject of the expunction order;

(3) the date the person who is the subject of the expunction order was arrested;

(4) the case number and court of offense; and

(5) the tracking incident number (TRN) assigned to the individual incident of arrest under Article 60.07(b)(1) by the Department of Public Safety.

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other entity of this state or of any political subdivision of this state designated by the person who is the subject of the order. The certified copy of the order must be sent by secure electronic mail or facsimile transmission, if requested in writing by the person who is the subject of the order, or otherwise by certified mail, return receipt requested. In sending the order to an entity designated by the person, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order. The Department of Public Safety shall notify any central federal depository of criminal records by any means, including secure electronic mail or facsimile transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, either:

(1) destroy or return to the court the records in possession of the depository that are subject to the order, including any information with respect to the order; or

(2) comply with Section 5(f) of this article pertaining to information contained in records and files of a person entitled to expunction under Article 55.01(d).

(d) Any returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation. In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, or bond hearing; or

(B) a civil case, including a civil suit or suit for possession of or access to a child.

(b) Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (a) of this section, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) Except as provided by Subsection (f), on receipt of the order, each official or agency or other entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d), the court may give the person who is the subject of the order all records and files returned to it pursuant to its order.

(c) Except in the case of a person who is the subject of an expunction order based on an entitlement under Article 55.01(d), if an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person who is the subject of the order unless the order permits retention of a record under Section 4 of this article and the person is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Section 4(a) of this article. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

(d) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d), the clerk of the court shall destroy all the files or other records maintained under Subsection (c) not earlier than the 60th day after the date the order of expunction is issued or later than the first anniversary of that date unless the records or files were released under Subsection (b).

(d-1) Not later than the 30th day before the date on which the clerk destroys files or other records under Subsection (d), the clerk shall provide notice by mail, electronic mail, or facsimile transmission to the attorney representing the state in the expunction proceeding. If the attorney representing the state in the expunction proceeding objects to the destruction not later than the 20th day after receiving notice under this subsection, the clerk may not destroy the files or other records until the first anniversary of the date the order of expunction is issued or the first business day after that date.

(e) The clerk shall certify to the court the destruction of files or other records under Subsection (d) of this section.

(f) On receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, or other entity named in the order:

(1) shall:

(A) obliterate all portions of the record or file that identify the petitioner; and

(B) substitute for all obliterated portions of the record or file any available information that identifies the person arrested; and

(2) may not return the record or file or delete index references to the record or file.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, Sec. 1, eff. Aug. 27, 1979; Sec. 1(b) amended by Acts 1989, 71st Leg., ch. 803, Sec. 2, eff. Sept. 1, 1989; Sec. 3(a) amended by Acts 1989, 71st Leg., ch. 803, Sec. 3, eff. Sept. 1, 1989; Sec. 5(d), (e) added by Acts 1989, 71st Leg., ch. 803, Sec. 4, eff. Sept. 1, 1989; Sec. 3(a) amended by Acts 1991, 72nd Leg., ch. 380, Sec. 1, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 1236, Sec. 2, eff. Aug. 30, 1999; Sec. 2(a), (b) amended by and Sec. 2(e) added by Acts 2001, 77th Leg., ch. 945, Sec. 2, eff. June 14, 2001; Sec. 3(c) amended by Acts 2001, 77th Leg., ch. 1021, Sec. 2, eff. Sept. 1, 2001; Sec. 5 amended by Acts 2001, 77th Leg., ch. 945, Sec. 3, eff. June 14, 2001; Sec 1 amended by Acts 2003, 78th Leg., ch. 404, Sec. 1, eff. Sept. 1, 2003; Sec. 2(a) amended by Acts 2003, 78th Leg., ch. 339, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1236, Sec. 2, eff. Sept. 1, 2003; Sec. 2(e) amended by Acts 2003, 78th Leg., ch. 339, Sec. 7, eff. Sept. 1, 2003; Sec. 2(a) added by Acts 2003, 78th Leg., ch. 339, Sec. 3, eff. Sept. 1, 2003; Sec. 3(a), 3(b) amended by Acts 2003, 78th Leg., ch. 404, Sec. 2, eff. Sept. 1, 2003; Sec. 3(c) amended by Acts 2003, 78th Leg., ch. 339, Sec. 4, eff. Sept. 1, 2003; Sec. 1 amended by Acts 2003, 78th Leg., ch. 404, Sec. 1, eff. Sept. 1, 2003; Sec. 3(a), 3(b) amended by Acts 2003, 78th Leg., ch. 404, Sec. 2, eff. Sept. 1, 2003; Sec. 5(d) amended by Acts 2003, 78th Leg., ch. 1126, Sec. 1, eff. June 20, 2003; Sec. 5(d-1) added by Acts 2003, 78th Leg., ch. 1126, Sec. 1, eff. June 20, 2003; Sec. 2(a) amended by Acts 2005, 79th Leg., ch. 728, Sec. 4.006, eff. Sept. 1, 2005; Sec. 2(c) amended by Acts 2005, 79th Leg., ch. 177, Sec. 1, eff. Sept. 1, 2005; Sec. 2(c-1) added by Acts 2005, 79th Leg., ch. 177, Sec. 1, eff. Sept. 1, 2005; Sec. 2(d) amended by Acts 2005, 79th Leg., ch. 1309, Sec. 2, eff. Sept. 1, 2005; Sec. 2(e) and (f) added by Acts 2005, 79th Leg., ch. 1309, Sec.

2, eff. Sept. 1, 2005; Sec. 3(c) and (d) amended by Acts 2005, 79th Leg., ch. 177, Sec. 2, eff. Sept. 1, 2005.

Art. 55.03. EFFECT OF EXPUNCTION. When the order of expunction is final:

(1) the release, maintenance, dissemination, or use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision (3) of this article, the person arrested may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the person arrested or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

Added by Acts 1977, 65th Leg., p. 1880, ch. 747, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, Sec. 1, eff. Aug. 27, 1979; Acts 1999, 76th Leg., ch. 1236, Sec. 3, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1021, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1236, Sec. 3, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 790, Sec. 1, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 919, Sec. 1, eff. June 18, 2005.

Art. 55.04. VIOLATION OF EXPUNCTION ORDER. Sec. 1. A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

Sec. 2. A person who knowingly fails to return or to obliterate identifying portions of a record or file ordered expunged under this chapter commits an offense.

Sec. 3. An offense under this article is a Class B misdemeanor.

Added by Acts 1977, 65th Leg., p. 1880, ch. 747, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, Sec. 1, eff. Aug. 27, 1979.

Art. 55.05. NOTICE OF RIGHT TO EXPUNCTION. On release or discharge of an arrested person, the person responsible for the release or discharge shall give him a written explanation of his rights under this chapter and a copy of the provisions of this chapter.

Added by Acts 1977, 65th Leg., p. 1880, ch. 747, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, Sec. 1, eff. Aug. 27, 1979.

Art. 55.06. LICENSE SUSPENSIONS AND REVOCATIONS. Records relating to the suspension or revocation of a driver's license, permit, or privilege to operate a motor vehicle may not be expunged under this chapter except as provided in Section 524.015, Transportation Code, or Section 724.048 of that code.

Added by Acts 1993, 73rd Leg., ch. 886, Sec. 16, eff. Jan. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 3.08, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1236, Sec. 4, eff. Aug. 30, 1999.

Chapter 411 Sub F
GOVERNMENT CODE SUBTITLE B. LAW ENFORCEMENT AND PUBLIC
PROTECTION CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE
STATE OF TEXAS SUBCHAPTER A. GENERAL PROVISIONS AND
ADMINISTRATION
SUBCHAPTER F. CRIMINAL HISTORY RECORD INFORMATION

§ 411.081. APPLICATION OF SUBCHAPTER.

(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;
- (5) published judicial or administrative opinions; or
- (6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

(d) Notwithstanding any other provision of this subchapter, if a person 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, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. After notice to the state and 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 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. A criminal justice agency may disclose criminal history record information that is the subject of the order to an individual or agency described by Section 411.083(b)(1), (2), or (3). A person may petition the court for an order of nondisclosure on payment of a \$28 fee to the clerk of the court. The payment may be made 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, or 46, Penal Code;
or

(3) the 5th anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during deferred probation period and the applicable period described by 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. A person is not entitled to petition the court under Subsection (d) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for:

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

(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;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; or

(4) any other offense involving family violence, as defined by Section 71.004, Family Code.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

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

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

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

(g) When an order of nondisclosure is issued under this subsection, the clerk of the court shall send a copy of the order by certified mail, return receipt requested, to the Crime Records Service of the

Department of Public Safety. The Department of Public Safety shall send a copy of the order by mail or electronic means to all 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, and to all central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order.

(h) The clerk of a court that collects a fee under 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. The 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 and orders of nondisclosure 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; and
- (3) the costs incurred by the department in taking those actions.

Added by Acts 1993, 73rd Leg., ch. 790, § 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1236, § 4, eff. Sept. 1, 2003.

§ 411.082. DEFINITIONS. In this subchapter:

- (1) "Administration of criminal justice" has the meaning assigned by Article 60.01, Code of Criminal Procedure.
- (2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:

(A) an activity that is included in the administration of criminal justice; or

(B) screening of applicants for employment with a criminal justice agency.

Added by Acts 1993, 73rd Leg., ch. 790, § 35, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, § 30.190, eff. Sept. 1, 1997.

§ 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION.

(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, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

- (3) the person who is the subject of the criminal history record information;
- (4) a person working on a research or statistical project that: (A) is funded in whole or in part by state funds; or (B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;
- (5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement: (A) specifically authorizes access to information; (B) limits the use of information to the purposes for which it is given; (C) ensures the security and confidentiality of the information; and (D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated;
- (6) a county or district clerk's office; and
- (7) the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4) or (b)(5) only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(6) only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(6) may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(6) does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(7) only to the extent necessary for the office of court administration to perform a duty imposed by law to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(7) in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, § 35, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 474, § 4, eff. Sept. 1, 2001.

§ 411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION.

(a) Criminal history record information obtained from the department under this subchapter:

Statute Of Limitations
CHAPTER 12. LIMITATION
Art. 12.01. Felonies

Art. 12.02. Misdemeanors

Art. 12.03. Aggravated offenses, attempt, conspiracy, solicitation, organized criminal activity

Art. 12.04. Computation

Art. 12.05. Absence from State and time of pendency of indictment, etc., not computed

Art. 12.06. An indictment is "presented," when

Art. 12.07. An information is "presented," when

Art. 12.01. Felonies
Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;
(B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the

testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or
(C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (5); or

(F) arson;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception; or

(C) a violation under Sections 153.403(22)-(39), Tax Code;

(4) five years from the date of the commission of the offense:

(A) theft, burglary, robbery;

(B) kidnapping;

(C) injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code; or

(D) abandoning or endangering a child;

(5) ten years from the 18th birthday of the victim of the offense:

(A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code; or

(B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or

(6) three years from the date of the commission of the offense: all other felonies.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 975, ch. 399, Sec. 2(B), eff. Jan. 1, 1974; Acts 1975, 64th Leg., p. 478, ch. 203, Sec. 5, eff. Sept. 1, 1975.

Amended by Acts 1983, 68th Leg., p. 413, ch. 85, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5317, ch. 977, Sec. 7, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 330, Sec. 1, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 716, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 565, Sec. 6, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 476, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 740, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 39, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1285, Sec. 33, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 12, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1479, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1482, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 371, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 5.001, eff. Sept. 1, 2003.

Art. 12.02. Misdemeanors

An indictment or information for any misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 975, ch. 399, Sec. 2(B), eff. Jan. 1, 1974.

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Art. 12.03. Aggravated offenses, attempt, conspiracy, solicitation, organized criminal activity

(a) The limitation period for criminal attempt is the same as that of the offense attempted.

(b) The limitation period for criminal conspiracy or organized criminal activity is the same as that of the most serious offense that is the object of the conspiracy or the organized criminal activity.

(c) The limitation period for criminal solicitation is the same as that of the felony solicited.

(d) Except as otherwise provided by this chapter, any offense that bears the title "aggravated" shall carry the same limitation period as the primary crime.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 975, ch. 399, Sec. 2(B), eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 1133, Sec. 1, eff. Sept. 1, 1987; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 740, Sec. 2, eff. Sept. 1, 1997.

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Art. 12.04. Computation

The day on which the offense was committed and the day on which the indictment or information is presented shall be excluded from the computation of time.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 976, ch. 399, Sec. 2(B), eff. Jan. 1, 1974.

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Art. 12.05. Absence from State and time of pendency of indictment, etc., not computed

- (a) The time during which the accused is absent from the state shall not be computed in the period of limitation.
- (b) The time during the pendency of an indictment, information, or complaint shall not be computed in the period of limitation.
- (c) The term "during the pendency," as used herein, means that period of time beginning with the day the indictment, information, or complaint is filed in a court of competent jurisdiction, and ending with the day such accusation is, by an order of a trial court having jurisdiction thereof, determined to be invalid for any reason.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 976, ch. 399, Sec. 2(B), eff. Jan. 1, 1974.

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Art. 12.06. An indictment is "presented," when

An indictment is considered as "presented" when it has been duly acted upon by the grand jury and received by the court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 976, ch. 399, Sec. 2(B), eff. Jan. 1, 1974.

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Art. 12.07. An information is "presented," when

An information is considered as "presented," when it has been filed by the proper officer in the proper court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 976, ch. 399, Sec. 2(B), eff. Jan. 1, 1974.

Definintion of "Family Violence"

- o An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself
- o Physical injury by a member of a family or household toward a child of the family or household that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm
- o Sexual conduct by a member of a family or household toward a child of the family or household harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code
- o Conduct by a by a member of a family or household toward a child of the family or household compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code; or
- o Dating violence, e.g. an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or

sexual assault, but does not include defensive measures to protect oneself.

Non-Disclosure Mandatory Wait Times to file

SPECIAL NOTICE: As of September 1st 2005 the wait times for an order of non-disclosure have been lowered! All 10 year waits have been lowered to 5 years, and all 5 year waits have been lowered to 2 years! The chart below already reflects these new wait times. These first ones listed have no wait time at all!

Misdemeanors that qualify for nondisclosure immediately after completion and dismissal of deferred adjudication community supervision:

Chapter 28 Criminal Mischief, and other Property Damage or Destruction

28.03 Criminal Mischief if loss less than \$1,500

28.04 Reckless Damage or Destruction

28.07 Interference w/ Railroad Property

28.08 Graffiti if Pecuniary Loss is Less than \$1,500

Chapter 30 Burglary & Criminal Trespass

30.03 Burglary of Coin-Operated or Coin Collection Machines

30.04 Burglary of Vehicles

30.05 Criminal Trespass

30.06 Criminal Trespass by Holder of License to Carry Concealed Handgun

Chapter 31 Theft

31.03 Theft

31.04 Theft of Service

31.11 Tampering with Identification

31.12 Theft of or Tampering with Multi-channel Video

31.13 Manufacture, Distribution, or Advertisement of Multi-channel Video

31.14 Sale or Lease Multi-channel Video
31.15 Possession, Manufacture, Distribution of Certain Instruments
used to Commit Retail Theft

Chapter 32 Fraud, Forgery, Credit Card Abuse, IBC, SEDD, ID theft,
etc.

32.21 Forgery
32.22 Criminal Simulation
32.24 Stealing or Receiving Stolen Check or Similar Sight Order
32.32 False Statement to Obtain Property or Credit
32.33 Hindering Secured Creditors
32.34 Fraudulent Transfer of Motor Vehicle
32.35 Credit Card Transaction Record Laundering Deceptive Practices
32.41 Issuance of a Bad Check
32.42 Deceptive Business Practices
32.44 Rigging Publicly Exhibited Contest
32.441 Illegal Recruitment of an Athlete
32.45 Misapplication of Fiduciary Property or Property of Financial
Institution
32.46 Securing Execution of Document by Deception
32.47 Fraudulent Destruction, Removal, or Concealment of Writing
32.48 Simulating Legal Process
32.49 Refusal to Execute Release of Fraudulent Lien or Claim
32.50 Deceptive Preparation and Marketing of Academic Report

Chapter 33 Computer Crimes, Telecommunication crimes

33.02 Breach of Computer Security
33A.02 Unauthorized Use of Telecommunications Service
33A.04 Theft of Telecommunications Service
33A.05 Publication of Telecommunications Access Device

Chapter 35 Insurance Fraud

35.02 Insurance Fraud

Chapter 36 Corrupt Influence

- 36.03 Coercion of Public Servant or Voter
- 36.04 Improper influence
- 36.07 Acceptance of Honorarium
- 36.08 Gift to Public Servant
- 36.09 Offering Gift to Public Servant

Chapter 37 Perjury and Other Falsification

- 37.02 Perjury
- 37.08 False Report to Police Officer or Law Enforcement Employee
- 37.081 False Report Regarding Missing Child or Missing Person
- 37.09 Tampering with or Fabricating Physical Evidence
- 37.10 Tampering with Governmental Record
- 37.101 Fraudulent Filing of Financing Statement
- 37.12 False Identification as a Peace Officer
- 37.13 Record of Fraudulent Court

Chapter 38 Obstructing Governmental Operations

- 38.02 Failure to ID
- 38.03 Resisting Arrest, Search, or Transportation
- 38.04 Evading Arrest or Detention
- 38.05 Hindering Apprehension or Prosecution
- 38.06 Escape
- 38.07 Permitting or Facilitating Escape
- 38.10 Bail Jumping and Failure to Appear
- 38.111 Improper Contact with Victim
- 38.112 Failure to Report a Felony [New Law]
- 38.12 Barratry and Solicitation of Professional Employment
- 38.123 Unauthorized Practice of Law
- 38.13 Hindering Proceedings By Disorderly Conduct
- 38.15 Interference with Public Duties
- 38.151 Interference with Service Animals
- 38.16 Preventing Execution of Civil Process
- 38.17 Failure to Stop or Report Aggravated Sexual Assault of Child
- 38.18 Use of Accident Report Information & Other Information for Pecuniary Gain

38.19 Failure to Provide Notice and Report of Death of Resident of Institution

Chapter 39 Abuse of Office

39.02 Abuse of Official Capacity

39.03 Official Oppression

39.04 Violation of Civil Rights of Person in Custody

39.05 Failure to Report Death of Prisoner

39.06 Misuse of Official Information

Chapter 43 Public Indecency: Prostitution, Obscenity

43.02 Prostitution

43.03 Promotion of Prostitution

43.22 Obscene Display or Distribution

43.23 Obscenity

43.24 Sale, Distribution, or Display of Harmful Material to Minor

43.251 Employment Harmful to Children

Chapter 47 Gambling

47.02 Gambling

47.03 Gambling Promotion

47.04 Keeping a Gambling Place

47.05 Communicating Gambling Information

47.06 Possession of Gambling Device, Equipment, or Paraphernalia

Chapter 48 Conduct affecting Public Health

48.01 Smoking Tobacco

48.015 Prohibitions Relating to Certain Cigarettes

48.02 Prohibition of the Purchase or Sale of Human Organs

Chapter 49 Intoxication and Alcoholic Beverage Offenses

49.02 Public Intoxication

49.031 Possession of Alcohol in a Motor Vehicle

49.04 Driving While Intoxicated

49.065 Assembling or Operating an Amusement Ride while Intoxicated

Chapter 71 Organized Crime

71.021 Violation of Court Order Enjoining Criminal Activity And misdemeanors under the Controlled Substance Act Section 481/001 et seq.

Misdemeanors that qualify for nondisclosure TWO years after completion and dismissal of deferred adjudication community supervision (Chapters 20 [Kidnapping and unlawful restraint], 21 [Sexual Offenses], 22 [Assaultive Offenses], 25 [Offenses against the Family], 42 [Disorderly Conduct and related offenses], and 46 [Weapons])

Chapter 20 Unlawful Restraint

20.02 Unlawful restraint

Chapter 21 Sexual Offenses

21.06 Homosexual Conduct [unconstitutional]

21.07 Public Lewdness

21.08 Indecent Exposure [2nd offense requires sex offender registration: not eligible for nondisclosure]

Chapter 22 Assaultive Offenses

22.01 Assault [but not against PO or family member or member of household]

22.05 Deadly Conduct

22.07 Terroristic Threat

22.08 Aiding Suicide

22.10 Leaving a Child in a Vehicle

22.11 Harassment by Persons in Certain Correctional Facilities

Chapter 25 Offenses Against the Family

- 25.01 Bigamy
- 25.04 Enticing a Child
- 25.06 Harboring a Runaway Child
- 25.071 Violation of Protective Order Preventing Offense Caused by Bias or Prejudice [§25.07 Regular Violation of Protective Order is NEVER eligible]
- 25.09 Advertising for Placement of Child

Chapter 42 Disorderly Conduct and Related Offenses

- 42.01 Disorderly Conduct
- 42.02 Riot
- 42.03 Obstructing Passageway
- 42.05 Disrupting Meeting or Procession
- 42.06 False Alarm or Report
- 42.07 Harassment
- 42.08 Abuse of Corpse
- 42.09 Cruelty to Animals
- 42.10 Dog Fighting
- 42.11 Destruction of Flag
- 42.12 Discharge of Firearm in Certain Municipalities
- 42.13 Use of Laser Pointers [new law]

Chapter 46 Weapons

- 46.02 Unlawfully Carrying a Weapon
- 46.04 Unlawful Possession of a Firearm
- 46.05 Prohibited Weapon
- 46.06 Unlawful Transfer of Certain Weapons
- 46.08 Hoax Bomb
- 46.13 Making a Firearm Accessible to a Child

Ineligible for nondisclosure if previously convicted or placed on deferred adjudication for:

an offense requiring sex offender registration under Chapter 62
an offense under §20.04 (aggravated kidnapping)
an offense under §19.02 [Murder], §19.03 [Capital Murder], §22.04
[injury to a child, elderly individual, or disabled individual], §22.041
abandoning or endangering child], §25.07 violation of protective order
or magistrate's order], §42.072 [Stalking]; or
any other offense involving family violence as defined by §71.004 of
the Family Code.
All felonies

5 years from date of discharge and dismissal.