

1-1 By: Huffman S.B. No. 1801
1-2 (In the Senate - Filed March 7, 2019; March 18, 2019, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 8, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Fallon	X		
1-14	Hall	X		
1-15	Lucio	X		
1-16	Nelson	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1801 By: Huffman

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to orders of nondisclosure for certain victims of
1-22 trafficking of persons or compelling prostitution.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 411.0728, Government Code, is amended to
1-25 read as follows:

1-26 Sec. 411.0728. PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING
1-27 OF PERSONS OR COMPELLING PROSTITUTION. (a) This section applies
1-28 only to a person:

1-29 (1) who is convicted of or placed on deferred
1-30 adjudication community supervision [~~under Chapter 42A, Code of~~
1-31 ~~Criminal Procedure, after conviction~~] for an offense under:

1-32 (A) Section 481.120, Health and Safety Code, if
1-33 the offense is punishable under Subsection (b)(1);

1-34 (B) Section 481.121, Health and Safety Code, if
1-35 the offense is punishable under Subsection (b)(1);

1-36 (C) Section 31.03, Penal Code, if the offense is
1-37 punishable under Subsection (e)(1) or (2); or

1-38 (D) Section 43.02, Penal Code; [~~or~~
1-39 [~~(E) Section 43.03(a)(2), Penal Code, if the~~
1-40 ~~offense is punishable as a Class A misdemeanor,~~] and

1-41 (2) who, if requested by the applicable law
1-42 enforcement agency or prosecuting attorney to provide assistance in
1-43 the investigation or prosecution of an offense under Section
1-44 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense
1-45 containing elements that are substantially similar to the elements
1-46 of an offense under any of those sections:

1-47 (A) provided assistance in the investigation or
1-48 prosecution of the offense; or

1-49 (B) did not provide assistance in the
1-50 investigation or prosecution of the offense due to the person's age
1-51 or a physical or mental disability resulting from being a victim of
1-52 an offense described by this subdivision [~~with respect to whom the~~
1-53 ~~conviction is subsequently set aside by the court under Article~~
1-54 ~~42A.701, Code of Criminal Procedure~~].

1-55 (b) Notwithstanding any other provision of this subchapter
1-56 or Subchapter F, a person described by Subsection (a) who satisfies
1-57 the requirements of Section 411.074(b) [411.074] may petition the
1-58 court that convicted the person or placed the person on deferred
1-59 adjudication community supervision for an order of nondisclosure of
1-60 criminal history record information under this section on the

2-1 grounds that the person committed the offense solely as a victim of
 2-2 an offense under Section 20A.02, 20A.03, or 43.05, Penal Code
 2-3 ~~[trafficking of persons]~~.

2-4 (b-1) A petition under Subsection (b) must:

2-5 (1) be in writing;

2-6 (2) allege specific facts that, if proved, would
 2-7 establish that the petitioner committed the offense described by
 2-8 Subsection (a)(1) solely as a victim of an offense under Section
 2-9 20A.02, 20A.03, or 43.05, Penal Code; and

2-10 (3) assert that if the person has previously submitted
 2-11 a petition for ~~[seeking]~~ an order of nondisclosure under this
 2-12 section, the person has not committed an offense described by
 2-13 Subsection (a)(1) on or after the date on which the person's first
 2-14 petition ~~[previously received an order of nondisclosure]~~ under this
 2-15 section was submitted.

2-16 (b-2) On the filing of the petition under Subsection (b),
 2-17 the clerk of the court shall promptly serve a copy of the petition
 2-18 and any supporting document on the appropriate office of the
 2-19 attorney representing the state. Any response to the petition by
 2-20 the attorney representing the state must be filed not later than the
 2-21 20th business day after the date of service under this subsection.

2-22 (b-3) A person convicted of or placed on deferred
 2-23 adjudication community supervision for more than one offense
 2-24 described by Subsection (a)(1) that the person committed solely as
 2-25 a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal
 2-26 Code, may file a petition for an order of nondisclosure of criminal
 2-27 history record information under this section with respect to each
 2-28 offense, and may request consolidation of those petitions, in a
 2-29 district court in the county where the person was most recently
 2-30 convicted or placed on deferred adjudication community supervision
 2-31 as described by this subsection. On receipt of a request for
 2-32 consolidation, the court shall consolidate the petitions and
 2-33 exercise jurisdiction over the petitions, regardless of the county
 2-34 in which the offenses described by Subsection (a)(1) occurred. For
 2-35 each offense that is the subject of a consolidated petition and that
 2-36 occurred in a county other than the county in which the court
 2-37 consolidating the petitions is located, the clerk of the court, in
 2-38 addition to the clerk's duties under Subsection (b-2), shall
 2-39 promptly serve a copy of the consolidated petition and any
 2-40 supporting document related to the applicable offense on the
 2-41 appropriate office of the attorney representing the state on behalf
 2-42 of the other county. Each attorney representing the state who
 2-43 receives a copy of a consolidated petition under this subsection
 2-44 may file a response to the petition in accordance with Subsection
 2-45 (b-2).

2-46 (b-4) A district court that consolidates petitions under
 2-47 Subsection (b-3) shall allow an attorney representing the state who
 2-48 receives a petition involving an offense that was committed outside
 2-49 the county in which the court is located to appear at any hearing
 2-50 regarding the consolidated petition by telephone or video
 2-51 conference call.

2-52 (c) After notice to the state and~~[7]~~ an opportunity for a
 2-53 hearing, ~~[a determination by the court that the person has not~~
 2-54 ~~previously received an order of nondisclosure under this section,~~
 2-55 ~~and a determination by the court that the person committed the~~
 2-56 ~~offense solely as a victim of trafficking of persons and that~~
 2-57 ~~issuance of the order is in the best interest of justice,~~] the court
 2-58 having jurisdiction over the petition shall issue an order
 2-59 prohibiting criminal justice agencies from disclosing to the public
 2-60 criminal history record information related to the offense if the
 2-61 court determines that:

2-62 (1) the person committed the offense described by
 2-63 Subsection (a)(1) solely as a victim of an offense under Section
 2-64 20A.02, 20A.03, or 43.05, Penal Code;

2-65 (2) if applicable, the person did not commit another
 2-66 offense described by Subsection (a)(1) on or after the date on which
 2-67 the person's first petition for an order of nondisclosure under
 2-68 this section was submitted; and

2-69 (3) issuance of the order is in the best interest of

3-1 justice [for which the defendant was placed on community
3-2 supervision as described by Subsection (a)].

3-3 (c-1) In determining whether a person committed an offense
3-4 described by Subsection (a)(1) solely as a victim of an offense
3-5 under Section 20A.02, 20A.03, or 43.05, Penal Code, the court may
3-6 consider any order of nondisclosure previously granted to the
3-7 person under this section.

3-8 (d) A person may petition the applicable court [that placed
3-9 the person on community supervision] for an order of nondisclosure
3-10 of criminal history record information under this section only on
3-11 or after the first anniversary of the date the person:

3-12 (1) completed the sentence, including any term of
3-13 confinement imposed and payment of all fines, costs, and
3-14 restitution imposed; or

3-15 (2) received a dismissal and discharge under Article
3-16 42A.111, Code of Criminal Procedure, if the person was placed on
3-17 deferred adjudication community supervision [person's conviction
3-18 is set aside as described by Subsection (a)].

3-19 SECTION 2. Article 56.021, Code of Criminal Procedure, is
3-20 amended by adding Subsection (e) to read as follows:

3-21 (e) A victim of an offense under Section 20A.02, 20A.03, or
3-22 43.05, Penal Code, is entitled to be informed that the victim may
3-23 petition for an order of nondisclosure of criminal history record
3-24 information under Section 411.0728, Government Code, if the victim:

3-25 (1) has been convicted of or placed on deferred
3-26 adjudication community supervision for an offense described by
3-27 Subsection (a)(1) of that section; and

3-28 (2) committed that offense solely as a victim of an
3-29 offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

3-30 SECTION 3. Section 126.004, Government Code, is amended by
3-31 adding Subsection (d) to read as follows:

3-32 (d) A program established under this chapter shall provide
3-33 each program participant with information related to the right to
3-34 petition for an order of nondisclosure of criminal history record
3-35 information under Section 411.0728.

3-36 SECTION 4. This Act takes effect September 1, 2019.

3-37

* * * * *