

By: Canales

H.B. No. 325

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files relating to certain nonviolent offenses.

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

SECTION 1. Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.012 to read as follows:

Art. 55.012. EXPUNCTION OF CERTAIN NONVIOLENT OFFENSES.

(a) A person who has been placed under a custodial or noncustodial arrest for an offense other than an offense under Title 5, Penal Code, is entitled to have all records and files related to the arrest expunged if:

(1) the person was placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, for the offense and subsequently received a discharge and dismissal in the case under Article 42A.111;

(2) the person has not been arrested for the commission of any Class B misdemeanor, Class A misdemeanor, or felony committed after the date of the offense for which the person was placed on deferred adjudication community supervision; and

(3) since the date on which the person received a discharge and dismissal as described by Subdivision (1):

(A) a period of not less than five years has passed, if the offense for which the person received the discharge and dismissal was a misdemeanor; or

1 (B) a period of not less than 10 years has passed,
2 if the offense for which the person received the discharge and
3 dismissal was a felony.

4 (b) The person must submit an ex parte petition for
5 expunction to the court that granted the deferred adjudication
6 community supervision. The petition must be verified and must
7 contain:

8 (1) the information described by Section 2(b), Article
9 55.02; and

10 (2) a statement that the person has not been arrested
11 for the commission of any Class B misdemeanor, Class A misdemeanor,
12 or felony committed after the date of the offense for which the
13 person was placed on deferred adjudication community supervision.

14 (c) If the court finds that the petitioner is entitled to
15 expunction of any arrest records and files that are the subject of
16 the petition, the court shall enter an order directing expunction
17 in a manner consistent with the procedures described by Section 1a,
18 Article 55.02.

19 SECTION 2. Section 109.005(a), Business & Commerce Code, is
20 amended to read as follows:

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

25 (1) an order of expunction has been issued under
26 Chapter 55 [Article 55.02], Code of Criminal Procedure; or

27 (2) an order of nondisclosure of criminal history

1 record information has been issued under Subchapter E-1, Chapter
2 [411](#), Government Code.

3 SECTION 3. Article [55.011](#)(b), Code of Criminal Procedure,
4 is amended to read as follows:

5 (b) A close relative of a deceased person who, if not
6 deceased, would be entitled to expunction of records and files
7 under this chapter [~~Article 55.01~~] may file on behalf of the
8 deceased person an ex parte petition for expunction under Section 2
9 or 2a, Article [55.02](#), or Article 55.012, as applicable. If the
10 court finds that the deceased person would be entitled to
11 expunction of any record or file that is the subject of the
12 petition, the court shall enter an order directing expunction.

13 SECTION 4. Section [411.0835](#), Government Code, is amended to
14 read as follows:

15 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO
16 CERTAIN PRIVATE ENTITIES. If the department receives information
17 indicating that a private entity that purchases criminal history
18 record information from the department has been found by a court to
19 have committed three or more violations of Section [552.1425](#) by
20 compiling or disseminating information with respect to which an
21 order of expunction has been issued under Chapter 55 [~~Article~~
22 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of
23 criminal history record information has been issued under
24 Subchapter E-1, the department may not release any criminal history
25 record information to that entity until the first anniversary of
26 the date of the most recent violation.

27 SECTION 5. Section [411.0851](#)(a), Government Code, is amended

1 to read as follows:

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

6 (1) an order of expunction has been issued under
7 Chapter 55 [~~Article 55.02~~], Code of Criminal Procedure; or

8 (2) an order of nondisclosure of criminal history
9 record information has been issued under Subchapter E-1.

10 SECTION 6. Section 411.151(b), Government Code, is amended
11 to read as follows:

12 (b) A person may petition for the expunction of a DNA record
13 under the procedures established under Article 55.02, Code of
14 Criminal Procedure, if the person is entitled to the expunction of
15 records relating to the offense to which the DNA record is related
16 under Chapter 55 [~~Article 55.01~~], Code of Criminal Procedure.

17 SECTION 7. Section 552.1425(a), Government Code, is amended
18 to read as follows:

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

23 (1) an order of expunction has been issued under
24 Chapter 55 [~~Article 55.02~~], Code of Criminal Procedure; or

25 (2) an order of nondisclosure of criminal history
26 record information has been issued under Subchapter E-1, Chapter
27 411.

1 SECTION 8. This Act applies to an expunction of records and
2 files relating to any criminal offense that occurred before, on, or
3 after the effective date of this Act.

4 SECTION 9. This Act takes effect September 1, 2017.