

By: Canales

H.B. No. 670

Substitute the following for H.B. No. 670:

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C.S.H.B. No. 670

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files relating to certain criminal 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 MISDEMEANOR OFFENSES. (a) A person who has been placed under a custodial or noncustodial arrest for a misdemeanor offense other than a misdemeanor offense under Chapter 42, 43, 46, or 71, Penal Code, or 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 misdemeanor offense and subsequently received a discharge and dismissal under Article 42A.111;

(2) the person was not required to register as a sex offender under Chapter 62 as a condition of or as a result of the person's placement on deferred adjudication community supervision as described by Subdivision (1);

(3) the person has not been convicted of or placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, for a Class B misdemeanor, Class A misdemeanor, or felony committed after the date of the misdemeanor offense for

1 which the person was placed on deferred adjudication community
2 supervision;

3 (4) there are no charges pending against the person
4 for the commission of any offense, other than an offense punishable
5 by fine only; and

6 (5) a period of not less than five years has passed
7 since the date on which the person received the discharge and
8 dismissal described by Subdivision (1).

9 (b) The person must submit an ex parte petition for
10 expunction to the court that placed the person on deferred
11 adjudication community supervision. The petition must be verified
12 and must contain:

13 (1) the information described by Section 2(b), Article
14 55.02; and

15 (2) a statement that:

16 (A) the person was not required to register as a
17 sex offender under Chapter 62 as a condition of or as a result of the
18 person's placement on deferred adjudication community supervision
19 by the court;

20 (B) the person has not been convicted of or
21 placed on deferred adjudication community supervision under
22 Subchapter C, Chapter 42A, for a Class B misdemeanor, Class A
23 misdemeanor, or felony committed after the date of the misdemeanor
24 offense for which the person was placed on deferred adjudication
25 community supervision; and

26 (C) there are no charges pending against the
27 person for the commission of any offense, other than an offense

1 punishable by fine only.

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

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

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

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

15 (2) an order of nondisclosure of criminal history
16 record information has been issued under Subchapter E-1, Chapter
17 411, Government Code.

18 SECTION 3. Article 55.011(b), Code of Criminal Procedure,
19 is amended to read as follows:

20 (b) A close relative of a deceased person who, if not
21 deceased, would be entitled to expunction of records and files
22 under this chapter [Article 55.01] may file on behalf of the
23 deceased person an ex parte petition for expunction under Section 2
24 or 2a, Article 55.02, or Article 55.012, as applicable. If the
25 court finds that the deceased person would be entitled to
26 expunction of any record or file that is the subject of the
27 petition, the court shall enter an order directing expunction.

1 SECTION 4. Article 102.006(b), Code of Criminal Procedure,
2 is amended to read as follows:

3 (b) The fees under Subsection (a) shall be waived if ~~[+~~
4 ~~[(1)]~~ the petitioner:

5 (1) seeks expunction of a criminal record that relates
6 to an arrest for an offense of which the person was acquitted, other
7 than an acquittal for an offense described by Article 55.01(c), ~~[+~~
8 and

9 ~~[(2)]~~ the petition for expunction is filed not later
10 than the 30th day after the date of the acquittal; or

11 (2) is entitled to expunction under Chapter 55, and
12 the court finds that the petitioner is indigent.

13 SECTION 5. 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 6. 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 7. 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 8. 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 9. This Act applies to an expunction of arrest
2 records and files relating to any misdemeanor offense that occurred
3 before, on, or after the effective date of this Act.

4 SECTION 10. This Act takes effect September 1, 2017.