

By: Canales

H.B. No. 670

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files relating to certain nonviolent misdemeanor 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 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 has not been arrested for the commission of any Class B misdemeanor, Class A misdemeanor, or felony committed after the date of the misdemeanor offense for which the person was placed on deferred adjudication community supervision; and

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

(b) The person must submit an ex parte petition for

1 expunction to the court that granted the deferred adjudication  
2 community supervision. The petition must be verified and must  
3 contain:

4 (1) the information described by Section 2(b), Article  
5 55.02; and

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

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

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

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

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

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

27 SECTION 3. Article 55.011(b), Code of Criminal Procedure,

1 is amended to read as follows:

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

10 SECTION 4. Section 411.0835, Government Code, is amended to  
11 read as follows:

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

24 SECTION 5. Section 411.0851(a), Government Code, is amended  
25 to read as follows:

26 (a) A private entity that compiles and disseminates for  
27 compensation criminal history record information shall destroy and

1 may not disseminate any information in the possession of the entity  
2 with respect to which the entity has received notice that:

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

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

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

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

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

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

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

22 (2) an order of nondisclosure of criminal history  
23 record information has been issued under Subchapter E-1, Chapter  
24 411.

25 SECTION 8. This Act applies to an expunction of records and  
26 files relating to any misdemeanor offense that occurred before, on,  
27 or after the effective date of this Act.

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