

By: Dominguez

H.B. No. 1104

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 OFFENSES.

(a) A person who has been placed under a custodial or noncustodial arrest for a misdemeanor or state jail felony other than an offense under Chapter 25, 42, 43, 46, or 71, Penal Code, or Title 5 or 8, 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 dismissal and discharge 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 an offense, other than a traffic offense punishable by fine only, committed after the date of the commission

1 of the offense for which the person was placed on deferred
2 adjudication community supervision as described by Subdivision
3 (1);

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

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

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

14 (1) the information described by Section 2(b), Article
15 55.02; and

16 (2) a statement that:

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

21 (B) the person has not been convicted of or
22 placed on deferred adjudication community supervision under
23 Subchapter C, Chapter 42A, for an offense, other than a traffic
24 offense punishable by fine only, committed after the date of the
25 commission of the offense for which the person seeks an order of
26 expunction; and

27 (C) there are no charges pending against the

1 person for the commission of any offense, other than a traffic
2 offense punishable by fine only.

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

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

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

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

16 (2) an order of nondisclosure of criminal history
17 record information has been issued under Subchapter E-1, Chapter
18 411, Government Code.

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

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

1 shall enter an order directing expunction.

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

4 (b) The fees under Subsection (a) or the fee under
5 Subsection (a-1), as applicable, shall be waived if:

6 (1) the petitioner seeks expunction of a criminal
7 record that relates to an arrest for an offense of which the person
8 was acquitted, other than an acquittal for an offense described by
9 Article 55.01(c), and the petition for expunction is filed not
10 later than the 30th day after the date of the acquittal; or

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

14 SECTION 5. Section 411.0835, Government Code, is amended to
15 read as follows:

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

1 SECTION 6. Section 411.0851(a), Government Code, is amended
2 to read as follows:

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

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

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

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

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

18 SECTION 8. Section 552.1425(a), Government Code, is amended
19 to read as follows:

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

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

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

1 411.

2 SECTION 9. This Act applies to an expunction of arrest
3 records and files relating to any misdemeanor offense or state jail
4 felony offense that was committed before, on, or after the
5 effective date of this Act.

6 SECTION 10. This Act takes effect September 1, 2021.