

By: Davis

H.B. No. 2193

A BILL TO BE ENTITLED

AN ACT

relating to the automatic expunction of all records and files related to arrests for certain 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. AUTOMATIC EXPUNCTION OF CERTAIN MISDEMEANOR OFFENSES. (a) A person who has been placed under a custodial or noncustodial arrest for an offense is entitled to the expunction of all records and files related to the arrest, including, as applicable, any records and files related to a conviction of the offense, if:

(1) the offense for which the person was arrested was a misdemeanor offense, other than a misdemeanor offense:

(A) under Section 106.041, Alcoholic Beverage Code, or Chapter 49, Penal Code; or

(B) involving family violence, as defined by Section 71.004, Family Code;

(2) the person is convicted of or placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, for the offense described by Subdivision (1);

(3) the person has never been previously convicted of or placed on deferred adjudication community supervision for any offense involving family violence, as defined by Section 71.004,

1 Family Code;

2 (4) the person has not been convicted of or placed on
3 deferred adjudication community supervision under Subchapter C,
4 Chapter 42A, for an offense, other than a traffic offense
5 punishable by fine only, committed after the date of the commission
6 of the offense described by Subdivision (1);

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

10 (6) a period of not less than 10 years has passed since
11 the date on which, as applicable:

12 (A) the person's sentence for the offense
13 described by Subdivision (1), including any term of confinement or
14 period of community supervision imposed and payment of all fines
15 and costs imposed, is fully discharged; or

16 (B) the person received a dismissal and discharge
17 under Article 42A.111 for the offense described by Subdivision (1).

18 (b) Regardless of whether the person has filed a petition
19 for expunction, not later than the 30th day after the date that a
20 person becomes entitled to expunction under this article, the court
21 that convicted the person or placed the person on deferred
22 adjudication community supervision shall enter an order directing
23 expunction in a manner consistent with the procedures described by
24 Section 1a, Article 55.02, provided that the order does not apply to
25 an opinion issued by an appellate court.

26 (c) Notwithstanding any other law, a person entitled to
27 expunction under this article is not required to pay any fee for an

1 expunction under this article.

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

4 (a) A business entity may not publish any criminal record
5 information in the business entity's possession with respect to
6 which the business entity has knowledge or has received notice
7 that:

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

10 (2) an order of nondisclosure of criminal history
11 record information has been issued under Subchapter E-1, Chapter
12 411, Government Code.

13 SECTION 3. 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 4. 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 5. 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 6. 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 7. (a) Subject to Subsection (b) of this section,
2 this Act applies to an expunction of arrest records and files
3 relating to any misdemeanor offense that was committed before, on,
4 or after the effective date of this Act.

5 (b) If a person entitled to expunction under Article 55.012,
6 Code of Criminal Procedure, as added by this Act, completed the
7 person's sentence or received a dismissal and discharge before
8 September 1, 2013, the court that convicted the person or placed the
9 person on deferred adjudication community supervision shall issue
10 an order of expunction under that article as soon as practicable
11 after the effective date of this Act but not later than August 31,
12 2025.

13 SECTION 8. This Act takes effect September 1, 2023.