

By: Perry

S.B. No. 509

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of certain mug shots.

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

SECTION 1. Section 109.005(a), Business & Commerce Code, is amended to read as follows:

(a) A business entity may not publish any criminal record information in the business entity's possession:

(1) with respect to which the business entity has knowledge or has received notice that:

(A) ~~(1)~~ an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(B) ~~(2)~~ an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411, Government Code; or

(2) that may not be released to the public under Section 552.1082, Government Code.

SECTION 2. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.1082 to read as follows:

Sec. 552.1082. RELEASE OF MUG SHOTS. (a) In this section, "mug shot" means an image taken of an individual during the process of arresting the individual or booking the individual into jail.

(b) A mug shot may not be released to the public, unless:

(1) the individual has been convicted of a criminal offense, other than an offense described by Subsection (c), based

1 upon the conduct for which the individual was arrested or
2 incarcerated at the time the mug shot was taken;

3 (2) a law enforcement agency releases the mug shot
4 after determining that:

5 (A) the individual is:

6 (i) a fugitive; or

7 (ii) an imminent threat to another
8 individual or to public safety; and

9 (B) releasing the mug shot will assist in
10 apprehending the individual or reducing or eliminating the threat;
11 or

12 (3) a judge orders the release of the mug shot based on
13 a finding that the release is in furtherance of a legitimate law
14 enforcement interest.

15 (c) A mug shot may not be released to the public if the mug
16 shot was taken in association with an offense for which:

17 (1) the conviction has been expunged; or

18 (2) the individual has been fully exonerated.

19 (d) If an individual was charged with multiple offenses
20 based upon the conduct for which the individual was arrested or
21 incarcerated at the time the mug shot was taken, and the individual
22 was later convicted of one or more of those offenses, the
23 individual's mug shot may be released to the public unless:

24 (1) all of the convictions have been expunged; or

25 (2) the individual has been fully exonerated of all
26 convictions.

27 SECTION 3. Section [552.1425](#)(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 may not compile or
4 disseminate information:

5 (1) with respect to which the entity has received
6 notice that:

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

9 (B) [~~(2)~~] an order of nondisclosure of criminal
10 history record information has been issued under Subchapter E-1,
11 Chapter 411; or

12 (2) that may not be released to the public under
13 Section 552.1082.

14 SECTION 4. The change in law made by this Act applies to a
15 mug shot regardless of the date it was created.

16 SECTION 5. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2023.