

By: Canales

H.B. No. 667

Substitute the following for H.B. No. 667:

By: Moody

C.S.H.B. No. 667

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting a person's waiver of a right to an expunction or to an order of nondisclosure of criminal history record information with respect to a criminal offense.

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

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Article 1.14(a), a person may not waive, as part of an agreement regarding the disposition of criminal charges based on the person's commission of an alleged offense, any right of the person to an expunction under this chapter that may exist in relation to that offense on or after the date the waiver is signed, unless the waiver relates solely to records and files in the possession of the attorney representing the state in the person's case. A purported waiver of that right that is executed in violation of this subsection is void.

SECTION 2. Section 4, Article 55.02, Code of Criminal Procedure, is amended by adding Subsection (a-3) to read as follows:

(a-3) The court shall provide in its expunction order that the attorney representing the state may retain the arrest records and files of a person who is the subject of the expunction order if the person has signed a waiver authorized under Article 55.01(e).

SECTION 3. Subchapter E-1, Chapter 411, Government Code, is

1 amended by adding Section 411.078 to read as follows:

2       Sec. 411.078. WAIVER OF RIGHT TO ORDER OF NONDISCLOSURE  
3 PROHIBITED. Notwithstanding Article 1.14(a), Code of Criminal  
4 Procedure, a person may not waive, as part of an agreement regarding  
5 the disposition of criminal charges based on the person's  
6 commission of an alleged offense, any right of the person to an  
7 order of nondisclosure of criminal history record information under  
8 this subchapter that may exist in relation to that offense on or  
9 after the date the waiver is signed. A purported waiver of that  
10 right is void.

11       SECTION 4. The changes in law made by this Act apply only to  
12 a waiver of a person's right to an expunction or an order of  
13 nondisclosure of criminal history record information made on or  
14 after the effective date of this Act. A waiver made before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the waiver was made, and the former law is continued in effect  
17 for that purpose.

18       SECTION 5. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2017.