86R13578 JRR-D

By:  Dominguez H.B. No. 4028

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files relating to certain nonviolent 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 offense for which the person was placed on deferred adjudication community supervision as described by Subdivision (1);

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

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

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

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

(2)  a statement that:

(A)  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 by the court;

(B)  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 offense for which the person seeks an order of expunction; and

(C)  there are no charges pending against the person for the commission of any offense, other than a traffic offense punishable by fine only.

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

SECTION 2.  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 with respect to which the business entity has knowledge or has received notice that:

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

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

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

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

SECTION 4. Article 102.006(b), Code of Criminal Procedure, as amended by Chapters 693 (H.B. 322) and 1149 (H.B. 557), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

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

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

(2)  is entitled to expunction under Article 55.01(a)(2)(A)(ii)(a) after successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law; or

(3)  is entitled to expunction under any other provision of Chapter 55, and the court finds that the petitioner is indigent.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9.  This Act applies to an expunction of arrest records and files relating to any misdemeanor or state jail felony that occurred before, on, or after the effective date of this Act.

SECTION 10.  This Act takes effect September 1, 2019.