

By: Canales

H.B. No. 64

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 MISDEMEANOR OFFENSES. (a) A person who has been placed under a custodial or noncustodial arrest for a misdemeanor offense other than a misdemeanor offense under Chapter 483, Health and Safety Code, Section 48.02, Penal Code, 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 misdemeanor 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

1 punishable by fine only, committed after the date of the
2 misdemeanor offense for which the person was placed on deferred
3 adjudication community supervision;

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 by the court;

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 misdemeanor offense for which the person was placed on deferred
26 adjudication community supervision; 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
26 court finds that the deceased person would be entitled to
27 expunction of any record or file that is the subject of the

1 petition, the court shall enter an order directing expunction.

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

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

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

13 (2) is entitled to expunction under Article
14 55.01(a)(2)(A)(ii)(a) after successful completion of a veterans
15 treatment court program created under Chapter 124, Government Code,
16 or former law; or

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

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

22 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO
23 CERTAIN PRIVATE ENTITIES. If the department receives information
24 indicating that a private entity that purchases criminal history
25 record information from the department has been found by a court to
26 have committed three or more violations of Section 552.1425 by
27 compiling or disseminating information with respect to which an

1 order of expunction has been issued under Chapter 55 [~~Article~~
2 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of
3 criminal history record information has been issued under
4 Subchapter E-1, the department may not release any criminal history
5 record information to that entity until the first anniversary of
6 the date of the most recent violation.

7 SECTION 6. Section [411.0851](#)(a), Government Code, is amended
8 to read as follows:

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

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

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

17 SECTION 7. Section [411.151](#)(b), Government Code, is amended
18 to read as follows:

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

24 SECTION 8. Section [552.1425](#)(a), Government Code, is amended
25 to read as follows:

26 (a) A private entity that compiles and disseminates for
27 compensation criminal history record information may not compile or

1 disseminate information with respect to which the entity has
2 received notice that:

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

5 (2) an order of nondisclosure of criminal history
6 record information has been issued under Subchapter E-1, Chapter
7 411.

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

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