

By: Canales

H.B. No. 176

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting a person's waiver of a right to an
3 expunction or to an order of nondisclosure of criminal history
4 record information with respect to a criminal offense.

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

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

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

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

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

24 (b) Unless the person who is the subject of the expunction

1 order is again arrested for or charged with an offense arising out
2 of the transaction for which the person was arrested or unless the
3 court provides for the retention of records and files under
4 Subsection (a-1), ~~[or]~~ (a-2), or (a-3), the provisions of Articles
5 55.03 and 55.04 apply to files and records retained under this
6 section.

7 SECTION 3. Subchapter E-1, Chapter 411, Government Code, is
8 amended by adding Section 411.078 to read as follows:

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

18 SECTION 4. The changes in law made by this Act apply only to
19 a waiver of a person's right to an expunction or an order of
20 nondisclosure of criminal history record information made on or
21 after the effective date of this Act. A waiver made before the
22 effective date of this Act is governed by the law in effect on the
23 date the waiver was made, and the former law is continued in effect
24 for that purpose.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 176

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2019.