

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

1 which the person was placed on deferred adjudication community  
2 supervision as described by Subdivision (1);

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

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

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

13 (1) the information described by Section 2(b), Article  
14 55.02; and

15 (2) a statement that:

16 (A) the person was not required to register as a  
17 sex offender under Chapter 62 as a condition of or as a result of the  
18 person's placement on deferred adjudication community supervision  
19 by the court;

20 (B) the person has not been convicted of or  
21 placed on deferred adjudication community supervision under  
22 Subchapter C, Chapter 42A, for an offense, other than a traffic  
23 offense punishable by fine only, committed after the date of the  
24 offense for which the person seeks an order of expunction; and

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

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

6        SECTION 2. Section 109.005(a), Business & Commerce Code, is  
7 amended to read as follows:

8        (a) A business entity may not publish any criminal record  
9 information in the business entity's possession with respect to  
10 which the business entity has knowledge or has received notice  
11 that:

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

14            (2) an order of nondisclosure of criminal history  
15 record information has been issued under Subchapter E-1, Chapter  
16 411, Government Code.

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

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

27        SECTION 4. Article 102.006(b), Code of Criminal Procedure,

1 as amended by Chapters 693 (H.B. 322) and 1149 (H.B. 557), Acts of  
2 the 85th Legislature, Regular Session, 2017, is reenacted and  
3 amended to read as follows:

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

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

11 (2) is entitled to expunction under Article  
12 55.01(a)(2)(A)(ii)(a) after successful completion of a veterans  
13 treatment court program created under Chapter 124, Government Code,  
14 or former law; or

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

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

20 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO  
21 CERTAIN PRIVATE ENTITIES. If the department receives information  
22 indicating that a private entity that purchases criminal history  
23 record information from the department has been found by a court to  
24 have committed three or more violations of Section 552.1425 by  
25 compiling or disseminating information with respect to which an  
26 order of expunction has been issued under Chapter 55 [~~Article~~  
27 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of

1 criminal history record information has been issued under  
2 Subchapter E-1, the department may not release any criminal history  
3 record information to that entity until the first anniversary of  
4 the date of the most recent violation.

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

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

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

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

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

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

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

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

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

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

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

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