

By: Canales

H.B. No. 109

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 commission
2 of the misdemeanor offense for which the person was placed on
3 deferred adjudication community supervision as described by
4 Subdivision (1);

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

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

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

15 (1) the information described by Section 2(b), Article
16 55.02; and

17 (2) a statement that:

18 (A) the person was not required to register as a
19 sex offender under Chapter 62 as a condition of or as a result of the
20 person's placement on deferred adjudication community supervision
21 as described by Subsection (a)(1);

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

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

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

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

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

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

17 (2) an order of nondisclosure of criminal history
18 record information has been issued under Subchapter E-1, Chapter
19 411, Government Code.

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

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

1 expunction of any record or file that is the subject of the
2 petition, the court shall enter an order directing expunction.

3 SECTION 4. Article 102.006(b), Code of Criminal Procedure,
4 is amended to read as follows:

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

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

12 (2) the petitioner is entitled to expunction under any
13 provision of Chapter 55 and the court finds that the petitioner is
14 indigent.

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

17 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO
18 CERTAIN PRIVATE ENTITIES. If the department receives information
19 indicating that a private entity that purchases criminal history
20 record information from the department has been found by a court to
21 have committed three or more violations of Section 552.1425 by
22 compiling or disseminating information with respect to which an
23 order of expunction has been issued under Chapter 55 [~~Article~~
24 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of
25 criminal history record information has been issued under
26 Subchapter E-1, the department may not release any criminal history
27 record information to that entity until the first anniversary of

1 the date of the most recent violation.

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

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

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

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

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

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

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

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

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

27 (2) an order of nondisclosure of criminal history

1 record information has been issued under Subchapter [E-1](#), Chapter
2 [411](#).

3 SECTION 9. This Act applies to an expunction of arrest
4 records and files relating to any misdemeanor offense that was
5 committed before, on, or after the effective date of this Act.

6 SECTION 10. This Act takes effect September 1, 2021.