

By: Canales

H.B. No. 1332

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 wave, 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 arrest  
14 records and files in the possession of the attorney representing  
15 the state in the person's case. A purported waiver of that right  
16 that is made 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

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

2 Act takes effect September 1, 2021.