

By: Crockett

H.B. No. 2338

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of all records and files related to arrests for certain misdemeanor 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 MISDEMEANOR OFFENSES.

(a) A person who has been placed under a custodial or noncustodial arrest for an offense is entitled to the expunction of all records and files related to the arrest, including, as applicable, any records and files related to a conviction of the offense, if:

(1) the offense for which the person was arrested was a misdemeanor offense and the person is convicted of or placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, for the offense;

(2) 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 commission of the offense described by Subdivision (1);

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

(4) a period of not less than 10 years has passed since

1 the date on which, as applicable:

2 (A) the person's sentence for the offense
3 described by Subdivision (1), including any term of confinement or
4 period of community supervision imposed and payment of all fines
5 and costs imposed, is fully discharged; or

6 (B) the person received a discharge and dismissal
7 under Article 42A.111 for the offense described by Subdivision (1).

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

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

14 (2) a statement that:

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

21 (B) there are no charges pending against the
22 person for the commission of any offense, other than a traffic
23 offense punishable by fine only.

24 (c) If the court finds that the petitioner is entitled to
25 expunction of any arrest records and files that are the subject of
26 the petition, the court shall enter an order directing expunction
27 in a manner consistent with the procedures described by Section 1a,

1 Article 55.02.

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

4 (a) A business entity may not publish any criminal record
5 information in the business entity's possession with respect to
6 which the business entity has knowledge or has received notice
7 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, Chapter
12 411, Government Code.

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

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

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

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

27 (1) the petitioner seeks expunction of a criminal

1 record that relates to an arrest for an offense of which the person
2 was acquitted, other than an acquittal for an offense described by
3 Article 55.01(c), and the petition for expunction is filed not
4 later than the 30th day after the date of the acquittal; or

5 (2) the petitioner is entitled to expunction under any
6 provision of Chapter 55 and the court finds that the petitioner is
7 indigent.

8 SECTION 5. Section 411.0835, Government Code, is amended to
9 read as follows:

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

22 SECTION 6. Section 411.0851(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 shall destroy and
26 may not disseminate any information in the possession of the entity
27 with respect to which the entity has 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.

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

7 (b) A person may petition for the expunction of a DNA record
8 under the procedures established under Article 55.02, Code of
9 Criminal Procedure, if the person is entitled to the expunction of
10 records relating to the offense to which the DNA record is related
11 under Chapter 55 [~~Article 55.01~~], Code of Criminal Procedure.

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

14 (a) A private entity that compiles and disseminates for
15 compensation criminal history record information may not compile or
16 disseminate information with respect to which the entity has
17 received notice that:

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

20 (2) an order of nondisclosure of criminal history
21 record information has been issued under Subchapter E-1, Chapter
22 411.

23 SECTION 9. This Act applies to an expunction of arrest
24 records and files relating to any misdemeanor offense or state jail
25 felony offense that was committed before, on, or after the
26 effective date of this Act.

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