

By: Canales

H.B. No. 4776

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of all records and files related to a finding of criminal contempt by a court.

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 RECORDS AND FILES RELATED TO CRIMINAL CONTEMPT. (a) A person who has been found in criminal contempt is entitled to the expunction of all records and files related to the contempt if a period of not less than 40 years has passed since the date on which the person was found in contempt.

(b) The person must submit an ex parte petition for expunction to the court that found the person in contempt. The petition must be verified and must contain the information described by Section 2(b), Article 55.02.

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

(d) For purposes of Articles 55.02, 55.03, 55.04, and 55.05, a reference to "arrest" includes the taking into custody of a person found in criminal contempt.

SECTION 2. Section 109.005(a), Business & Commerce Code, is

amended to read as follows:

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

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

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

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

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

SECTION 4. Section 411.0835, Government Code, is amended to read as follows:

Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO CERTAIN PRIVATE ENTITIES. If the department receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed three or more violations of Section 552.1425 by

1 compiling or disseminating information with respect to which an
2 order of expunction has been issued under Chapter 55 [~~Article~~
3 ~~55.02~~], Code of Criminal Procedure, or an order of nondisclosure of
4 criminal history record information has been issued under
5 Subchapter E-1, the department may not release any criminal history
6 record information to that entity until the first anniversary of
7 the date of the most recent violation.

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

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

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

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

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

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

25 SECTION 7. Section 552.1425(a), Government Code, is amended
26 to read as follows:

27 (a) A private entity that compiles and disseminates for

1 compensation criminal history record information may not compile or
2 disseminate information with respect to which the entity has
3 received notice that:

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

6 (2) an order of nondisclosure of criminal history
7 record information has been issued under Subchapter E-1, Chapter
8 411.

9 SECTION 8. This Act applies to an expunction of records and
10 files relating to a finding of criminal contempt that occurred
11 before, on, or after the effective date of this Act.

12 SECTION 9. This Act takes effect September 1, 2023.