

By: Anchía

H.B. No. 2617

Substitute the following for H.B. No. 2617:

By: Wu

C.S.H.B. No. 2617

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for the expunction of arrest records and files for certain persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 55A.203, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (d) to read as follows:

(a) A trial court that is a district court or a district court in the county in which the trial court is located shall ~~may,~~ ~~with the consent of the attorney representing the state,~~ enter an expunction order for a person entitled to expunction under Article 55A.053(a)(2)(A) not later than the 30th day after the date the court, as applicable:

(1) dismisses the case following the person's successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law; or

(2) receives the information regarding the dismissal.

(b) A trial court that is a district court or a district court in the county in which the trial court is located shall ~~may,~~ ~~with the consent of the attorney representing the state,~~ enter an expunction order for a person entitled to expunction under Article 55A.053(a)(2)(B) not later than the 30th day after the date the court, as applicable:

(1) dismisses the case following the person's

1 successful completion of a mental health court program created  
2 under Chapter 125, Government Code, or former law; or

3 (2) receives the information regarding the dismissal.

4 (b-1) A trial court that is a district court or a district  
5 court in the county in which the trial court is located shall enter  
6 an expunction order for a person entitled to expunction under  
7 Article 55A.053(a)(2)(C) not later than the 30th day after the date  
8 the court, as applicable:

9 (1) dismisses the case following the person's  
10 successful completion of a pretrial intervention program  
11 authorized under Section 76.011, Government Code, other than a  
12 program described by Subsection (a)(1) or (b)(1) of this section;  
13 or

14 (2) receives the information regarding the dismissal.

15 (d) The person for whom a court is required to enter an  
16 expunction order under Subsection (a), (b), or (b-1), as  
17 applicable, shall provide to the attorney representing the state  
18 all of the information required in a petition for expunction under  
19 Article 55A.253 and any affidavit required under Article 55A.053(b)  
20 or (c). The attorney representing the state shall prepare an  
21 expunction order under this article for the court's signature.

22 SECTION 2. Subchapter E, Chapter 55A, Code of Criminal  
23 Procedure, is amended by adding Article 55A.2035 to read as  
24 follows:

25 Art. 55A.2035. ATTORNEY REPRESENTING STATE CERTIFIES  
26 RECORDS AND FILES NOT NEEDED. (a) A trial court that is a district  
27 court or a district court in the county in which the trial court is

1 located shall enter an expunction order for a person entitled to  
2 expunction under Article 55A.052(a)(4) not later than the 30th day  
3 after the date the court receives the certification described by  
4 that subdivision.

5 (b) The attorney representing the state who certified under  
6 Article 55A.052(a)(4) that the applicable arrest records and files  
7 are not needed for use in any criminal investigation or prosecution  
8 shall prepare an expunction order under this article for the  
9 court's signature. The person for whom a court is required to enter  
10 an expunction order under Subsection (a) shall provide to the  
11 attorney representing the state all of the information required in  
12 a petition for expunction under Article 55A.253.

13 (c) Notwithstanding any other law, a court that enters an  
14 expunction order under this article may not charge any fee or assess  
15 any cost for the expunction.

16 SECTION 3. Article 55A.204, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 55A.204. DUTIES OF ATTORNEY REPRESENTING STATE  
19 REGARDING EXPUNCTION ORDER BASED ON ACTUAL INNOCENCE. The attorney  
20 representing the state shall prepare an expunction order under  
21 Article 55A.202 [~~or 55A.203~~] for the court's signature and notify  
22 the Texas Department of Criminal Justice if the person who is the  
23 subject of the order is in the custody of the department.

24 SECTION 4. Article 55A.205, Code of Criminal Procedure, is  
25 amended to read as follows:

26 Art. 55A.205. REQUIRED CONTENT OF EXPUNCTION ORDER BASED ON  
27 ACTUAL INNOCENCE. In an expunction order entered under Article

1 55A.202 [~~or 55A.203~~], the court shall:

2 (1) provide a listing of each official, agency, or  
3 other entity of this state or political subdivision of this state  
4 and each private entity that there is reason to believe has any  
5 record or file that is subject to the order; and

6 (2) require that:

7 (A) the Texas Department of Criminal Justice send  
8 to the court any documents delivered to the department under  
9 Section 8(a), Article 42.09; and

10 (B) the Department of Public Safety and the Texas  
11 Department of Criminal Justice delete or redact, as appropriate,  
12 from their public records all index references to the records and  
13 files that are subject to the expunction order.

14 SECTION 5. The heading to Article 55A.206, Code of Criminal  
15 Procedure, is amended to read as follows:

16 Art. 55A.206. REQUIRED RETENTION OF CERTAIN DOCUMENTS  
17 COLLECTED UNDER EXPUNCTION ORDER BASED ON ACTUAL INNOCENCE [~~BY~~  
18 ~~COURT~~].

19 SECTION 6. Article 55A.353, Code of Criminal Procedure, is  
20 amended to read as follows:

21 Art. 55A.353. DISPOSITION OF EXPUNGED RECORDS. Except as  
22 provided by Articles 55A.354 and 55A.357, on receipt of an  
23 expunction order issued under Subchapter E or F, each official or  
24 agency or other governmental entity named in the order shall:

25 (1) as appropriate:

26 (A) return all records and files that are subject  
27 to the expunction order to the court; or

1 (B) in cases other than those described by  
2 Article [~~Articles~~] 55A.202 [~~and 55A.203~~], if removal is  
3 impracticable, obliterate all portions of the record or file that  
4 identify the person who is the subject of the order and notify the  
5 court of the action; and

6 (2) delete from the named entity's public records all  
7 index references to the records and files that are subject to the  
8 expunction order.

9 SECTION 7. Subchapter H, Chapter 55A, Code of Criminal  
10 Procedure, is amended by adding Article 55A.358 to read as follows:

11 Art. 55A.358. RETENTION OF RECORDS FOR DEVELOPMENT AND  
12 OPERATION OF PRETRIAL INTERVENTION PROGRAMS. Notwithstanding  
13 Articles 55A.353, 55A.354, 55A.355, and 55A.356, a community  
14 supervision and corrections department established under Chapter  
15 76, Government Code, or an office of an attorney representing the  
16 state, in possession of records and files subject to an expunction  
17 order based on an entitlement under Article 55A.053(a)(2)(A), (B),  
18 or (C) may retain and use those records and files only for the  
19 purpose of developing and operating pretrial intervention programs  
20 in a judicial district served by the department or office.

21 SECTION 8. Article 102.006(b-1), Code of Criminal  
22 Procedure, is amended to read as follows:

23 (b-1) The fees under Subsection (a) shall be waived if the  
24 petitioner is entitled to expunction:

25 (1) under Article 55A.052(a)(4) after an attorney  
26 representing the state certifies that the applicable arrest records  
27 and files are not needed for use in any criminal investigation or

1 prosecution;

2           (2) under Article 55A.053(a)(2)(A) after successful  
3 completion of a veterans treatment court program created under  
4 Chapter 124, Government Code, or former law; ~~[or]~~

5           (3) ~~[(2)]~~ under Article 55A.053(a)(2)(B) after  
6 successful completion of a mental health court program created  
7 under Chapter 125, Government Code, or former law; or

8           (4) under Article 55A.053(a)(2)(C) after successful  
9 completion of a pretrial intervention program authorized under  
10 Section 76.011, Government Code.

11           SECTION 9. Section 124.001, Government Code, is amended by  
12 amending Subsection (b) and adding Subsection (c) to read as  
13 follows:

14           (b) If a defendant who was arrested for or charged with, but  
15 not convicted of or placed on deferred adjudication community  
16 supervision for, an offense successfully completes a veterans  
17 treatment court program, after notice to the attorney representing  
18 the state and a hearing in the veterans treatment court at which  
19 that court determines that a dismissal is in the best interest of  
20 justice, the veterans treatment court shall provide to the court in  
21 which the criminal case is pending information about the dismissal.

22           (c) On receipt of the dismissal information under  
23 Subsection (b), the ~~[and shall include all of the information~~  
24 ~~required about the defendant for a petition for expunction under~~  
25 ~~Article 55A.253, Code of Criminal Procedure. The]~~ court in which  
26 the criminal case is pending shall:

27           (1) dismiss the case against the defendant; and ~~[+~~

1           ~~[(1) if that trial court is a district court, the court~~  
2 ~~may, with the consent of the attorney representing the state, enter~~  
3 ~~an order of expunction on behalf of the defendant under Article~~  
4 ~~55A.203(a), Code of Criminal Procedure, or]~~

5           (2) if that trial court is not a district court, for  
6 purposes of Article 55A.203(a), Code of Criminal Procedure, provide  
7 to a district court in the county in which the trial court is  
8 located information about the dismissal ~~[the court may, with the~~  
9 ~~consent of the attorney representing the state, forward the~~  
10 ~~appropriate dismissal and expunction information to enable a~~  
11 ~~district court with jurisdiction to enter an order of expunction on~~  
12 ~~behalf of the defendant under Article 55A.203(a), Code of Criminal~~  
13 ~~Procedure].~~

14         SECTION 10. Section 125.001, Government Code, is amended by  
15 amending Subsection (b) and adding Subsection (c) to read as  
16 follows:

17         (b) If a defendant successfully completes a mental health  
18 court program, after notice to the attorney representing the state  
19 and a hearing in the mental health court at which that court  
20 determines that a dismissal is in the best interest of justice, the  
21 mental health court shall provide to the court in which the criminal  
22 case is pending information about the dismissal.

23         (c) On receipt of the dismissal information under  
24 Subsection (b), the ~~[and shall include all of the information~~  
25 ~~required about the defendant for a petition for expunction under~~  
26 ~~Article 55A.253, Code of Criminal Procedure. The]~~ court in which  
27 the criminal case is pending shall:

1           (1) dismiss the case against the defendant; and[+]

2           ~~[(1) if that trial court is a district court, the court~~  
3 ~~may, with the consent of the attorney representing the state, enter~~  
4 ~~an order of expunction on behalf of the defendant under Article~~  
5 ~~55A.203(b), Code of Criminal Procedure; or]~~

6           (2) if that trial court is not a district court, for  
7 purposes of Article 55A.203(b), Code of Criminal Procedure, provide  
8 to a district court in the county in which the trial court is  
9 located information about the dismissal ~~[the court may, with the~~  
10 ~~consent of the attorney representing the state, forward the~~  
11 ~~appropriate dismissal and expunction information to enable a~~  
12 ~~district court with jurisdiction to enter an order of expunction on~~  
13 ~~behalf of the defendant under Article 55A.203(b), Code of Criminal~~  
14 ~~Procedure].~~

15           SECTION 11. (a) Except as provided by Subsection (b) of  
16 this section and subject to Subsection (c) of this section, this Act  
17 applies, regardless of when the underlying arrest occurred, to the  
18 expunction of arrest records and files for a person:

19           (1) who successfully completes any of the following  
20 programs before, on, or after the effective date of this Act:

21                   (A) a veterans treatment court program under  
22 Chapter 124, Government Code, or former law;

23                   (B) a mental health court program under Chapter  
24 125, Government Code, or former law; or

25                   (C) a pretrial intervention program authorized  
26 under Section 76.011, Government Code; or

27           (2) whose case an attorney representing the state



1 certified that the applicable arrest records and files were not  
2 needed for use in any criminal investigation or prosecution.

3 (b) The change in law made by this Act to Article 102.006,  
4 Code of Criminal Procedure, applies to the fees charged or costs  
5 assessed for an expunction order entered on or after the effective  
6 date of this Act, regardless of whether the underlying arrest  
7 occurred before, on, or after the effective date of this Act.

8 (c) For a person who is entitled to expunction under Article  
9 55A.052(a)(4) or 55A.053(a)(2)(A), (B), or (C), Code of Criminal  
10 Procedure, based on a successful completion of a program described  
11 by Subsection (a)(1) of this section before the effective date of  
12 this Act or the certification by an attorney representing the state  
13 as described by Subsection (a)(2) of this section before the  
14 effective date of this Act, notwithstanding the 30-day time limit  
15 provided for the court to enter an automatic order of expunction  
16 under Article 55A.203 or 55A.2035, Code of Criminal Procedure, as  
17 amended or added by this Act, respectively, the court shall enter  
18 the required order of expunction for the person as soon as  
19 practicable after the court receives written notice from any party  
20 to the case about the person's entitlement to the expunction.

21 SECTION 12. This Act takes effect September 1, 2025.