

By: Anchía

H.B. No. 2617

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for the expunction of arrest records and files for persons who complete certain court programs or pretrial intervention programs.

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 (1) dismisses the case following the person's
2 successful completion of a mental health court program created
3 under Chapter 125, Government Code, or former law; or

4 (2) receives the information regarding the dismissal.

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

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

14 (2) receives the information regarding the dismissal.

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

22 SECTION 2. Article 55A.204, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 55A.204. DUTIES OF ATTORNEY REPRESENTING STATE
25 REGARDING EXPUNCTION ORDER BASED ON ACTUAL INNOCENCE. The attorney
26 representing the state shall prepare an expunction order under
27 Article 55A.202 [~~or 55A.203~~] for the court's signature and notify

the Texas Department of Criminal Justice if the person who is the subject of the order is in the custody of the department.

SECTION 3. Article 55A.205, Code of Criminal Procedure, is amended to read as follows:

Art. 55A.205. REQUIRED CONTENT OF EXPUNCTION ORDER BASED ON ACTUAL INNOCENCE. In an expunction order entered under Article 55A.202 [~~or 55A.203~~], the court shall:

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

(2) require that:

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

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

SECTION 4. The heading to Article 55A.206, Code of Criminal Procedure, is amended to read as follows:

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

SECTION 5. Article 55A.353, Code of Criminal Procedure, is amended to read as follows:

Art. 55A.353. DISPOSITION OF EXPUNGED RECORDS. Except as

provided by Articles 55A.354 and 55A.357, on receipt of an expunction order issued under Subchapter E or F, each official or agency or other governmental entity named in the order shall:

(1) as appropriate:

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

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

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

SECTION 6. Subchapter H, Chapter 55A, Code of Criminal Procedure, is amended by adding Article 55A.358 to read as follows:

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

SECTION 7. Article 102.006(b-1), Code of Criminal

Procedure, is amended to read as follows:

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

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

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

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

SECTION 8. Section 124.001, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

(c) On receipt of the dismissal information under Subsection (b), the ~~[and shall include all of the information required about the defendant for a petition for expunction under Article 55A.253, Code of Criminal Procedure. The]~~ court in which

the criminal case is pending shall:

(1) dismiss the case against the defendant; and

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

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

SECTION 9. Section 125.001, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

(c) On receipt of the dismissal information under Subsection (b), the ~~[and shall include all of the information required about the defendant for a petition for expunction under~~

Article ~~55A.253~~, Code of Criminal Procedure. The] court in which the criminal case is pending shall:

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

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

SECTION 10. (a) Except as provided by Subsection (b) of this section and subject to Subsection (c) of this section, this Act applies, regardless of when the underlying arrest occurred, to the expunction of arrest records and files for a person who successfully completes any of the following programs before, on, or after the effective date of this Act:

(1) a veterans treatment court program under Chapter ~~124~~, Government Code, or former law;

(2) a mental health court program under Chapter ~~125~~, Government Code, or former law; or

(3) a pretrial intervention program authorized under

1 Section 76.011, Government Code.

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

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

17 SECTION 11. This Act takes effect September 1, 2025.