

BILL ANALYSIS

C.S.H.B. 171
By: Keel
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas law gives district courts exclusive jurisdiction to grant expunction of criminal records. Prior legislation calling for the expunction of criminal records by “the trial court” following an acquittal does not accurately describe the proper procedure following an acquittal in a lower court, such as a County Court at Law. C.S.H.B. 171 would correct the language in Art. 55.02, Code of Criminal Procedure, to direct the expunction to the trial court if it was a district court, or to a district court in the county of the trial court if the trial court was a lower court.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 171 amends the Code of Criminal Procedure to clarify which court enters the order of expunction of a defendant who was acquitted. The bill directs the expunction to the trial court if it was a district court, or to a district court in the county of the trial court if the trial court was a lower court. The bill also requires the defense counsel to prepare the order of expunction for the court’s signature, if the defendant was represented by counsel, otherwise the responsibility is with the attorney for the state. In addition, the bill removes the requirement that a hearing be conducted before a court enters an order of expunction.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original bill by adding a provision determining who is responsible for preparing the order of expunction for the court’s signature. The substitute also removes from existing law, the requirement that a hearing be conducted before an order of expunction is entered.