

BILL ANALYSIS

C.S.H.B. 2725
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, if a person is acquitted of a crime, the trial court presiding over the case shall enter an order of expunction. Upon receiving this order, the clerk of the court must destroy the files and records on the first anniversary of the date the order for expunction is issued. It is extremely expensive for court clerks to store these records for an entire year. The purpose of C.S.H.B. 2725 is to reduce the fiscal burden of unneeded storage costs on court clerks.

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. 2725 amends the Code of Criminal Procedure to require that the clerk of the court destroy all of the records following expunction orders not earlier than the 60th day after the order of expunction is issued and not later than the first anniversary of the date the order of expunction is issued, unless the records were released under Subsection (b) of Section 5, Article 55.02.

The bill also requires that the clerk send a notice of intent to destroy the files to the attorney representing the state in the expunction proceeding not later than the 30th day after the order of expunction is issued. If the attorney objects to the destruction before the 20th day after receiving the notice, the records may not be destroyed until the first anniversary of the day the order of expunction is issued.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original in that the original version only required that the records be destroyed before the first anniversary of the date of the order for expunction. This language would not allow the attorney representing the state to object to the order of expunction. Whereas, the substitute allows clerks to destroy the files or records not earlier than the 60th day after the order of expunction is issued. Furthermore, the substitute allows the attorney representing the state to object to the destruction.