

By: Keel

H.B. No. 171

Substitute the following for H.B. No. 171:

By: Talton

C.S.H.B. No. 171

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of a district court to order the
3 expunction of arrest records and files for certain persons.

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

5 SECTION 1. Section 1, Article 55.02, Code of Criminal
6 Procedure, is amended to read as follows:

7 Sec. 1. At the request of the defendant and after notice to
8 the state [~~and a hearing~~], the trial court presiding over the case
9 in which the defendant was acquitted, if the trial court is a
10 district court, or a district court in the county in which the trial
11 court is located shall enter an order of expunction for a person
12 entitled to expunction under Article 55.01(a)(1)(A) not later than
13 the 30th day after the date of the acquittal. Upon acquittal, the
14 trial court shall advise the defendant of the right to expunction.
15 The defendant shall provide to the district court all of the
16 information required in a petition for expunction under Section
17 2(b). The attorney for the defendant in the case in which the
18 defendant was acquitted, if the defendant was represented by
19 counsel, or the attorney for the state, if the defendant was not
20 represented by counsel, shall prepare the order for the court's
21 signature.

22 SECTION 2. Sections 3(a) and (b), Article 55.02, Code of
23 Criminal Procedure, are amended to read as follows:

24 (a) In an order of expunction issued under this article, the

1 ~~[trial]~~ court shall require any state agency that sent information
2 concerning the arrest to a central federal depository to request
3 the ~~[such]~~ depository to return all records and files subject to the
4 order of expunction. The person who is the subject of the
5 expunction order or an agency protesting the expunction may appeal
6 the court's decision in the same manner as in other civil cases.

7 (b) The order of expunction entered by the ~~[trial]~~ court
8 shall have attached and incorporate by reference a copy of the
9 judgment of acquittal and shall include:

10 (1) the following information on the person who is the
11 subject of the expunction order:

- 12 (A) full name;
- 13 (B) sex;
- 14 (C) race;
- 15 (D) date of birth;
- 16 (E) driver's license number; and
- 17 (F) social security number;

18 (2) the offense charged against the person who is the
19 subject of the expunction order;

20 (3) the date the person who is the subject of the
21 expunction order was arrested;

22 (4) the case number and court of offense; and

23 (5) the tracking incident number (TRN) assigned to the
24 individual incident of arrest under Article 60.07(b)(1) by the
25 Department of Public Safety.

26 SECTION 3. This Act takes effect September 1, 2003, and
27 applies only to a request for expunction made on or after that date.