

By: Talton

H.B. No. 2725

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the destruction of records following certain
3 expunctions.

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

5 SECTION 1. Section 5, Article 55.02, Code of Criminal
6 Procedure, is amended by amending Subsection (d) and adding
7 Subsection (d-1) to read as follows:

8 (d) Except in the case of a person who is the subject of an
9 expunction order on the basis of an acquittal or an expunction order
10 based on an entitlement under Article 55.01(d), the clerk of the
11 court shall destroy all the files or other records maintained under
12 Subsection (c) not earlier than the 60th day after ~~[of this section~~
13 ~~on the first anniversary of]~~ the date the order of expunction is
14 issued or later than the first anniversary of that date unless the
15 records or files were released under Subsection (b) ~~[of this~~
16 ~~section]~~.

17 (d-1) Not later than the 30th day before the date on which
18 the clerk destroys files or other records under Subsection (d), the
19 clerk shall provide notice by mail, electronic mail, or facsimile
20 transmission to the attorney representing the state in the
21 expunction proceeding. If the attorney representing the state in
22 the expunction proceeding objects to the destruction not later than
23 the 20th day after receiving notice under this subsection, the
24 clerk may not destroy the files or other records until the first

1 anniversary of the date the order of expunction is issued or the
2 first business day after that date.

3 SECTION 2. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2003.