

1-1 By: Talton (Senate Sponsor - West) H.B. No. 2725
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 13, 2003, read first time and referred to Committee on Criminal
1-4 Justice; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the destruction of records following certain
1-9 expunctions.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 5, Article 55.02, Code of Criminal
1-12 Procedure, is amended by amending Subsection (d) and adding
1-13 Subsection (d-1) to read as follows:

1-14 (d) Except in the case of a person who is the subject of an
1-15 expunction order on the basis of an acquittal or an expunction order
1-16 based on an entitlement under Article 55.01(d), the clerk of the
1-17 court shall destroy all the files or other records maintained under
1-18 Subsection (c) not earlier than the 60th day after ~~[of this section~~
1-19 ~~on the first anniversary of]~~ the date the order of expunction is
1-20 issued or later than the first anniversary of that date unless the
1-21 records or files were released under Subsection (b) ~~[of this~~
1-22 ~~section]~~.

1-23 (d-1) Not later than the 30th day before the date on which
1-24 the clerk destroys files or other records under Subsection (d), the
1-25 clerk shall provide notice by mail, electronic mail, or facsimile
1-26 transmission to the attorney representing the state in the
1-27 expunction proceeding. If the attorney representing the state in
1-28 the expunction proceeding objects to the destruction not later than
1-29 the 20th day after receiving notice under this subsection, the
1-30 clerk may not destroy the files or other records until the first
1-31 anniversary of the date the order of expunction is issued or the
1-32 first business day after that date.

1-33 SECTION 2. This Act takes effect immediately if it receives
1-34 a vote of two-thirds of all the members elected to each house, as
1-35 provided by Section 39, Article III, Texas Constitution. If this
1-36 Act does not receive the vote necessary for immediate effect, this
1-37 Act takes effect September 1, 2003.

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