

## **BILL ANALYSIS**

H.B. 3093  
By: Pena  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Occasionally, through human error, incorrect information is entered on a driver record resulting in suspension action against an individual. The Department identifies most of these errors through standard exception processing procedures. However, in limited circumstances, the error is not identified or corrected in a timely manner and the driver is subsequently arrested for the offense of driving while a license is invalid.

When the driver notifies the Department that such an event has occurred, the individual's driver record is immediately corrected and the local prosecutor is notified of the error. Although the criminal charges are dismissed, the driver still has an arrest record related to the incident. Chapter 55 of the Code of Criminal Procedure allows a person placed under a custodial or noncustodial arrest to file an ex parte petition for expunction, which usually requires the driver to hire an attorney to petition the court for expunction of the records and then seek reimbursement from the Department to cover the expenses.

In an effort to alleviate the burden on the driver and to limit monetary claims against the agency, this bill seeks to amend the Code of Criminal Procedure to permit the director of the Department, or the authorized representative of the director, to file an ex parte petition for expunction of criminal records in these cases. This bill will allow the Department to properly remove all records and files relating to the arrest from the computerized criminal history database maintained by the Department and from any law enforcement agencies, jails, magistrates, courts and other entities authorized under Chapter 55.

### **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**

SECTION 1. Amends Article 55.01, Code of Criminal Procedure, to provide that a felony conviction in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed by the Department of Public Safety.

SECTION 2. Amends Article 55.02, Code of Criminal procedure, to grant the director of the Department, or his authorized representative, to file an ex parte petition on behalf of an eligible person and states the requirements of the petition.

SECTION 3. Effective date.

### **EFFECTIVE DATE**

September 1, 2005.