

By: Pena

H.B. No. 3093

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to ex parte petitions for the expunction of criminal  
3 records and files.

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

5 SECTION 1. Article 55.01, Code of Criminal Procedure, is  
6 amended by adding Subsection (a-1) to read as follows:

7 (a-1) Notwithstanding Subsection (a)(2)(C), a person's  
8 conviction of a felony in the five years preceding the date of the  
9 arrest does not affect the person's entitlement to expunction for  
10 purposes of an ex parte petition filed on behalf of the person by  
11 the director of the Department of Public Safety under Section 2(e),  
12 Article 55.02.

13 SECTION 2. Section 2, Article 55.02, Code of Criminal  
14 Procedure, is amended by amending Subsection (d) and adding  
15 Subsections (e) and (f) to read as follows:

16 (d) If the court finds that the petitioner, or a person for  
17 whom an ex parte petition is filed under Subsection (e), is entitled  
18 to expunction of any records and files that are the subject of the  
19 petition, it shall enter an order directing expunction.

20 (e) The director of the Department of Public Safety or the  
21 director's authorized representative may file on behalf of a person  
22 described by Subsection (a) of this section or by Section 2a an ex  
23 parte petition for expunction in a district court for the county in  
24 which:

1           (1) the person was arrested; or

2           (2) the offense was alleged to have occurred.

3           (f) An ex parte petition filed under Subsection (e) must be  
4 verified and must include the following or an explanation for why  
5 one or more of the following is not included:

6           (1) the person's:

7                   (A) full name;

8                   (B) sex;

9                   (C) race;

10                  (D) date of birth;

11                  (E) driver's license number;

12                  (F) social security number; and

13                  (G) address at the time of the arrest;

14           (2) the offense charged against the person;

15           (3) the date the offense charged against the person  
16 was alleged to have been committed;

17           (4) the date the person was arrested;

18           (5) the name of the county where the person was  
19 arrested and if the arrest occurred in a municipality, the name of  
20 the municipality;

21           (6) the name of the agency that arrested the person;

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

23           (8) a list of all law enforcement agencies, jails or  
24 other detention facilities, magistrates, courts, prosecuting  
25 attorneys, correctional facilities, central state depositories of  
26 criminal records, and other officials or agencies or other entities  
27 of this state or of any political subdivision of this state and of

1 all central federal depositories of criminal records that the  
2 person has reason to believe have records or files that are subject  
3 to expunction.

4 SECTION 3. This Act takes effect September 1, 2005.