

Amend CSHB 3481 (Senate committee report) as follows:

(1) In SECTION 1 of the bill, strike amended Article 55.01(a), Code of Criminal Procedure (page 1, lines 15-60), and substitute the following:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) ~~[of this section]~~; or

(B) convicted and subsequently:

(i) pardoned; or

(ii) otherwise granted relief on the basis of actual innocence with respect to that offense; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending, provided that there was no court-ordered community supervision under Article 42.12 for the offense and that ~~[each of the following conditions exist]~~:

(A) an indictment or information charging the person with the commission of a felony or misdemeanor:

(i) was [has] not [been] presented against the person for the [an] offense at any time before the date of the petition for expunction, and more than 180 days have elapsed from the date of the person's arrest for the offense; [arising out of the transaction for which the person was arrested] or

(ii) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, was[, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been] dismissed or quashed and, if the offense was a felony, more than 180 days have elapsed from the date the indictment or information was dismissed or quashed[7] and[+]

~~[(i) the limitations period expired before~~

~~the date on which a petition for expunction was filed under Article 55.02, or~~

~~[(ii)]~~ the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void; or

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired ~~[the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor, and]~~

~~[(C) the person has not been convicted of a felony in the five years preceeding the date of the arrest].~~

(2) Strike SECTION 3 of the bill (page 2, lines 18-21) and substitute the following appropriately numbered SECTION:

SECTION _____. This Act applies to an expunction of arrest records and files for any criminal offense:

(1) that occurred before, on, or after the effective date of this Act; or

(2) for which a pardon or other relief on the basis of actual innocence was granted before, on, or after the effective date of this Act.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Article 55.02, Code of Criminal Procedure, is amended by adding Section 1a to read as follows:

Sec. 1a. (a) The trial court presiding over a case in which a defendant is convicted and subsequently pardoned or otherwise subsequently granted relief on the basis of actual innocence of the offense of which the defendant was convicted, if the trial court is a district court, or a district court in the county in which the trial court is located, shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B) not

later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

(b) The attorney for the state shall prepare an expunction order under this section for the court's signature.

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that the Department of Public Safety and the Texas Department of Criminal Justice shall:

(1) return all records and files that are subject to the expunction order to the court; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(d) The court shall retain all records and files provided to the court under Subsection (c) until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

SECTION _____. Subsection (a), Section 2, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(2) [~~55.01(a)~~] or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

(1) the petitioner was arrested; or

(2) the offense was alleged to have occurred.

SECTION _____. Subsection (c), Section 3, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any

political subdivision of this state named in ~~[designated by the person who is the subject of]~~ the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order ~~[designated by the person]~~, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

SECTION _____. Subsection (a), Section 5, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsections (f) and (g), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(4) Renumber subsequent SECTIONS of the bill appropriately.