

BILL ANALYSIS

C.S.H.B. 2864
By: Moody
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A person arrested for the commission of either a felony or misdemeanor and later acquitted is entitled to have his or her criminal records expunged if certain conditions are met. Felonies are tried in district courts and misdemeanors are tried in county courts, however, only district courts are authorized to grant expunctions. Under current law, a person charged with a felony in district court and subsequently acquitted is permitted to seek an expunction in that court within 30 days of an acquittal, without having to pay any filing fees or costs. A person charged with a misdemeanor in a county court is not permitted to seek an expunction in the trial court; instead, the person must file a petition for expunction in a district court, in which a filing fee and costs are assessed because it is a new proceeding in that court. Therefore, a person acquitted of a misdemeanor pays fees and costs for an expunction, while a person acquitted of a felony does not. It is necessary to create uniformity and fairness by removing the discrepancy in law.

C.S.H.B. 2864 requires fees in a proceeding for the expunction of a criminal record to be waived within 30 days of an acquittal. The bill provides an exception to the waiver requirement relating to a criminal episode.

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

C.S.H.B. 2864 amends the Code of Criminal Procedure to require the fees in a proceeding for the expunction of a criminal record, including a filing fee and fees related to the certified mailing of a hearing date notice and certified copies of an expunction order, to be waived if the petition for expunction is filed not later than the 30th day after the date of the acquittal and if the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, unless that acquittal was for an offense that arose out of a criminal episode and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2864 differs from the original by including fees related to the certified mailing of a hearing date notice and certified copies of an expunction order among the fees in a proceeding for the expunction of a criminal report required to be waived under certain conditions.