

BILL ANALYSIS

H.B. 3481
By: Veasey
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In *State v. Beam*, the Supreme Court of Texas interpreted changes in statute made by the 79th Legislature to require that the statute of limitations for a crime must expire before a person against whom an indictment for that crime was sought may seek expunction of arrest records and files, even if the indictment has been dismissed or quashed because of lack of probable cause. This ruling overturned long-standing law that allowed the arrest records and files to be expunged without any such waiting period. The court's interpretation was not the intent of the legislature and is unduly burdensome, as there is no statute of limitations for some crimes, and other statutes of limitations are very long.

H.B. 3481 clarifies that the statute of limitations does not have to expire before a person's arrest records and files may be expunged if the indictment charging the person with commission of a felony has been quashed or dismissed due to lack of probable cause.

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

H.B. 3481 amends the Code of Criminal Procedure to clarify that in addition to other required conditions, if an indictment or information charging a person who has been placed under a custodial or noncustodial arrest for commission of a felony with commission of the felony was dismissed or quashed, the person is entitled to have all records and files relating to the arrest expunged if either the limitations period expired before the date on which a petition for expunction was filed or the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of a 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.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.