

By: Gallego

H.B. No. 2059

Substitute the following for H.B. No. 2059:

By: Miklos

C.S.H.B. No. 2059

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain pretrial and post-trial procedures in a  
3 criminal case.

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

5 SECTION 1. Article 17.085, Code of Criminal Procedure, is  
6 amended to read as follows:

7 Art. 17.085. NOTICE OF APPEARANCE DATE. The clerk of a  
8 court that does not provide online Internet access to that court's  
9 criminal case records shall post in a designated public place in the  
10 courthouse notice of a prospective criminal court docket setting as  
11 soon as the court notifies the clerk of the setting [~~not less than~~  
12 ~~48 hours before the docket setting~~].

13 SECTION 2. Article 20.22, Code of Criminal Procedure, is  
14 amended to read as follows:

15 Art. 20.22. PRESENTMENT ENTERED OF RECORD. (a) The fact  
16 of a presentment of indictment by a grand jury shall be entered in  
17 [~~upon~~] the record of the court, if the defendant is in custody or  
18 under bond, noting briefly the style of the criminal action, and [~~and~~]  
19 the file number of the indictment, and the defendant's name.

20 (b) If the defendant is not in custody or under bond at the  
21 time of the presentment of indictment, the indictment may not be  
22 made public and the entry in the record of the court relating to the  
23 [~~said~~] indictment must [~~shall~~] be delayed until [~~such time as~~] the  
24 capias is served and the defendant is placed in custody or under

1 bond.

2 SECTION 3. Sections 2(b) and (f), Article 55.02, Code of  
3 Criminal Procedure, are amended to read as follows:

4 (b) The petition must be verified and must [~~shall~~] include  
5 the following or an explanation for why one or more of the following  
6 is not included:

7 (1) the petitioner's:

8 (A) full name;

9 (B) sex;

10 (C) race;

11 (D) date of birth;

12 (E) driver's license number;

13 (F) social security number; and

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

15 (2) the offense charged against the petitioner;

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

18 (4) the date the petitioner was arrested;

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

22 (6) the name of the agency that arrested the  
23 petitioner;

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

25 (8) together with the applicable physical or e-mail  
26 addresses, a list of all:

27 (A) law enforcement agencies, jails or other

1 detention facilities, magistrates, courts, prosecuting attorneys,  
2 correctional facilities, central state depositories of criminal  
3 records, and other officials or agencies or other entities of this  
4 state or of any political subdivision of this state;

5 (B) central federal depositories of criminal  
6 records that the petitioner has reason to believe have records or  
7 files that are subject to expunction; and

8 (C) private entities that compile and  
9 disseminate for compensation criminal history record information  
10 that the petitioner has reason to believe have information related  
11 to records or files that are subject to expunction.

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

15 (1) the person's:

16 (A) full name;

17 (B) sex;

18 (C) race;

19 (D) date of birth;

20 (E) driver's license number;

21 (F) social security number; and

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

23 (2) the offense charged against the person;

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

26 (4) the date the person was arrested;

27 (5) the name of the county where the person was

1 arrested and if the arrest occurred in a municipality, the name of  
2 the municipality;

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

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

5 (8) together with the applicable physical or e-mail  
6 addresses, a list of all:

7 (A) law enforcement agencies, jails or other  
8 detention facilities, magistrates, courts, prosecuting attorneys,  
9 correctional facilities, central state depositories of criminal  
10 records, and other officials or agencies or other entities of this  
11 state or of any political subdivision of this state;

12 (B) central federal depositories of criminal  
13 records that the person has reason to believe have records or files  
14 that are subject to expunction; and

15 (C) private entities that compile and  
16 disseminate for compensation criminal history record information  
17 that the person has reason to believe have information relating to  
18 records or files that are subject to expunction.

19 SECTION 4. Section 2a(c), Article 55.02, Code of Criminal  
20 Procedure, is amended to read as follows:

21 (c) After verifying the allegations in an application  
22 received under Subsection (a), the attorney representing the state  
23 shall:

24 (1) include on the application information regarding  
25 the arrest that was requested of the applicant but was unknown by  
26 the applicant;

27 (2) forward a copy of the application to the district

1 court for the county;

2 (3) together with the applicable physical or e-mail  
3 addresses, attach to the copy a list of all:

4 (A) law enforcement agencies, jails or other  
5 detention facilities, magistrates, courts, prosecuting attorneys,  
6 correctional facilities, central state depositories of criminal  
7 records, and other officials or agencies or other entities of this  
8 state or of any political subdivision of this state;

9 (B) central federal depositories of criminal  
10 records that are reasonably likely to have records or files  
11 containing information that is subject to expunction; and

12 (C) private entities that compile and  
13 disseminate for compensation criminal history record information  
14 that are reasonably likely to have records or files containing  
15 information that is subject to expunction; and

16 (4) request the court to enter an order directing  
17 expunction based on an entitlement to expunction under Article  
18 55.01(d).

19 SECTION 5. The changes in law made by this Act in amending  
20 Article 55.02, Code of Criminal Procedure, apply to any petition or  
21 application for the expunction of arrest records and files that is  
22 filed on or after the effective date of this Act, regardless of  
23 whether the arrest occurred before, on, or after that date.

24 SECTION 6. This Act takes effect September 1, 2009.