By: Edwards   H.B. No. 3212

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the automatic expunction of certain criminal records;

3 increasing a penalty.

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

5   SECTION 1. Section 1, Article 55.02, Code of Criminal

6 Procedure, is amended to read as follows:

7   Sec. 1. (a) The [At the request of the defendant and after

8 notice to the state, the] trial court [presiding over the case in

9 which the defendant was acquitted, if the trial court is a district

10 court, or a district court in the county in which the trial court is

11 located] shall enter an order of expunction for a person entitled to

12 expunction because:

13   (1) the person was acquitted;

14   (2) the person was pardoned; or

15   (3) the offense was dismissed for a reason described

16 by Article 55.01(a)(2)(A)(ii) [under Article 55.01(a)(1)(A) not

17 later than the 30th day after the date of the acquittal. Upon

18 acquittal, the trial court shall advise the defendant of the right

19 to expunction. The defendant shall provide to the district court

20 all of the information required in a petition for expunction under

21 Section 2(b). The attorney for the defendant in the case in which

22 the defendant was acquitted, if the defendant was represented by

23 counsel, or the attorney for the state, if the defendant was not

24 represented by counsel, shall prepare the order for the court's

1 signature].

2   (b) The attorney representing the state whose office

3 prosecuted or would have prosecuted the offense shall prepare the

4 order of expunction for the court's signature under this section.

5   (c) The court shall enter an order of expunction under this

6 section not later than the 30th day after the date of acquittal,

7 pardon, or dismissal. The court shall include in the order a

8 listing of each official, agency, or other entity of this state or

9 political subdivision of this state and each private entity that

10 there is reason to believe has any record or file that is subject to

11 the order.

12   SECTION 2. Section 3, Article 55.04, Code of Criminal

13 Procedure, is amended to read as follows:

14   Sec. 3. An offense under this article is a Class A [B]

15 misdemeanor.

16   SECTION 3. (a) Article 55.02, Code of Criminal Procedure,

17 as amended by this Act, applies only to the expunction of arrest

18 records related to:

19   (1) a criminal offense for which an acquittal occurred

20 on or after the effective date of this Act;

21   (2) a charge for an offense that was dismissed on or

22 after the effective date of this Act; or

23   (3) an arrest made on or after the effective date of

24 this Act.

25   (b) Expunction for an acquittal, dismissal, or arrest that

26 occurred before the effective date of this Act is governed by the

27 law in effect at that time, and the former law is continued in

1 effect for that purpose.

2   SECTION 4. Article 55.04, Code of Criminal Procedure, as

3 amended by this Act, applies only to an offense committed on or

4 after the effective date of this Act. An offense committed before

5 the effective date of this Act is covered by the law in effect when

6 the offense was committed, and the former law is continued in effect

7 for that purpose. For purposes of this section, an offense was

8 committed before the effective date of this Act if any element of

9 the offense occurred before that date.

10   SECTION 5. This Act takes effect September 1, 2009.