

By: Darby

H.B. No. 3399

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the right of a person convicted of a Class A misdemeanor
3 to seek an expunction of arrest records and files relating to the
4 offense.

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

6 SECTION 1. Article 55.01(a), Code of Criminal Procedure, is
7 amended to read as follows:

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

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

14 (A) acquitted by the trial court, except as
15 provided by Subsection (c) of this section; or

16 (B) convicted and subsequently pardoned; [~~or~~]

17 (2) each of the following conditions exist:

18 (A) an indictment or information charging the
19 person with commission of a felony has not been presented against
20 the person for an offense arising out of the transaction for which
21 the person was arrested or, if an indictment or information
22 charging the person with commission of a felony was presented, the
23 indictment or information has been dismissed or quashed, and:

24 (i) the limitations period expired before

1 the date on which a petition for expunction was filed under Article
2 55.02; or

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

9 (B) the person has been released and the charge,
10 if any, has not resulted in a final conviction and is no longer
11 pending and there was no court ordered community supervision under
12 Article 42.12 for any offense other than a Class C misdemeanor; and

13 (C) the person has not been convicted of a felony
14 in the five years preceding the date of the arrest; or

15 (3) the person is tried for and convicted of the only
16 offense for which the person was arrested and the offense is:

17 (A) a Class A misdemeanor; and

18 (B) not an offense under Title 5, Penal Code.

19 SECTION 2. The change in law made by this Act applies to a
20 defendant seeking expunction of records and files relating to an
21 arrest regardless of whether the arrest occurred before, on, or
22 after the effective date of this Act.

23 SECTION 3. This Act takes effect September 1, 2009.