

By: Veasey, Hodge

H.B. No. 3481

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the right to an expunction of records and files relating
3 to a person's arrest.

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

5 SECTION 1. Articles 55.01(a) and (a-1), Code of Criminal
6 Procedure, are amended to read as follows:

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

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

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

15 (B) convicted and subsequently pardoned; or

16 (2) each of the following conditions exist:

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

23 (B) if an indictment or information charging the
24 person with commission of a felony was dismissed or quashed as

1 described by Paragraph (A), either [~~and~~]:

2 (i) the limitations period expired before
3 the date on which a petition for expunction was filed under Article
4 55.02; or

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

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

16 (D) [~~(C)~~] the person has not been convicted of a
17 felony in the five years preceding the date of the arrest.

18 (a-1) Notwithstanding Subsection (a)(2)(D) [~~(a)(2)(C)~~], a
19 person's conviction of a felony in the five years preceding the date
20 of the arrest does not affect the person's entitlement to
21 expunction for purposes of an ex parte petition filed on behalf of
22 the person by the director of the Department of Public Safety under
23 Section 2(e), Article 55.02.

24 SECTION 2. The change in law made by this Act applies to a
25 person seeking expunction of records relating to an arrest
26 regardless of whether the arrest occurred before, on, or after the
27 effective date of this Act.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.