

By: Gallego

H.B. No. 4379

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a written undertaking entered into by the defendant and the defendant's ~~[his]~~ sureties for the appearance of the principal therein before a a ~~[some]~~ court or magistrate to answer a criminal accusation; provided, however, that the defendant on ~~[upon]~~ execution of the ~~[such]~~ bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article ~~[Article]~~ shall:

(1) be receipted for by the officer receiving the funds; ~~[same]~~ and

(2) on order of the court, ~~[shall]~~ be refunded to the defendant after the defendant:

(A) ~~[if and when the defendant]~~ complies with the conditions of the defendant's ~~[his]~~ bond; and

(B) pays any court costs the court determines are due ~~[, and upon order of the court]~~.

1 SECTION 2. Article 17.085, Code of Criminal Procedure, is
2 amended to read as follows:

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

9 SECTION 3. Article 20.22, Code of Criminal Procedure, is
10 amended to read as follows:

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

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

22 SECTION 4. Sections 2(b) and (f), Article 55.02, Code of
23 Criminal Procedure, are amended to read as follows:

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

27 (1) the petitioner's:

- 1 (A) full name;
- 2 (B) sex;
- 3 (C) race;
- 4 (D) date of birth;
- 5 (E) driver's license number;
- 6 (F) social security number; and
- 7 (G) address at the time of the arrest;
- 8 (2) the offense charged against the petitioner;
- 9 (3) the date the offense charged against the
- 10 petitioner was alleged to have been committed;
- 11 (4) the date the petitioner was arrested;
- 12 (5) the name of the county where the petitioner was
- 13 arrested and if the arrest occurred in a municipality, the name of
- 14 the municipality;
- 15 (6) the name of the agency that arrested the
- 16 petitioner;
- 17 (7) the case number and court of offense; and
- 18 (8) together with the applicable physical or e-mail
- 19 addresses, a list of all:
- 20 (A) law enforcement agencies, jails or other
- 21 detention facilities, magistrates, courts, prosecuting attorneys,
- 22 correctional facilities, central state depositories of criminal
- 23 records, and other officials or agencies or other entities of this
- 24 state or of any political subdivision of this state;
- 25 (B) central federal depositories of criminal
- 26 records that the petitioner has reason to believe have records or
- 27 files that are subject to expunction; and

1 (C) private entities that compile and
2 disseminate for compensation criminal history record information
3 that the petitioner has reason to believe have information related
4 to records or files that are subject to expunction.

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

8 (1) the person's:

9 (A) full name;

10 (B) sex;

11 (C) race;

12 (D) date of birth;

13 (E) driver's license number;

14 (F) social security number; and

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

16 (2) the offense charged against the person;

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

19 (4) the date the person was arrested;

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

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

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 person has reason to believe have records or files
7 that are subject to expunction; and

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

12 SECTION 5. Section 2a(c), Article 55.02, Code of Criminal
13 Procedure, is amended to read as follows:

14 (c) After verifying the allegations in an application
15 received under Subsection (a), the attorney representing the state
16 shall:

17 (1) include on the application information regarding
18 the arrest that was requested of the applicant but was unknown by
19 the applicant;

20 (2) forward a copy of the application to the district
21 court for the county;

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

24 (A) law enforcement agencies, jails or other
25 detention facilities, magistrates, courts, prosecuting attorneys,
26 correctional facilities, central state depositories of criminal
27 records, and other officials or agencies or other entities of this

1 state or of any political subdivision of this state;

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

5 (C) private entities that compile and
6 disseminate for compensation criminal history record information
7 that are reasonably likely to have records or files containing
8 information that is subject to expunction; and

9 (4) request the court to enter an order directing
10 expunction based on an entitlement to expunction under Article
11 55.01(d).

12 SECTION 6. (a) The change in law made by this Act in
13 amending Article 17.02, Code of Criminal Procedure, applies only to
14 a bail bond that is executed on or after the effective date of this
15 Act. A bail bond executed before the effective date of this Act is
16 governed by the law in effect when the bail bond was executed, and
17 the former law is continued in effect for that purpose.

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

23 SECTION 7. This Act takes effect September 1, 2009.