

1-1 By: Harris S.B. No. 920
1-2 (In the Senate - Filed February 17, 2009; March 9, 2009,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 14, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 14, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 920 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the right to an expunction of records and files relating
1-11 to a person's arrest.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Article 55.01, Code of Criminal
1-14 Procedure, is amended to read as follows:

1-15 (a) A person who has been placed under a custodial or
1-16 noncustodial arrest for commission of either a felony or
1-17 misdemeanor is entitled to have all records and files relating to
1-18 the arrest expunged if:

1-19 (1) the person is tried for the offense for which the
1-20 person was arrested and is:

1-21 (A) acquitted by the trial court, except as
1-22 provided by Subsection (c) [~~of this section~~]; or

1-23 (B) convicted and subsequently pardoned; or

1-24 (2) each of the following conditions exist:

1-25 (A) either:

1-26 (i) an indictment or information charging
1-27 the person with commission of a felony has not been presented
1-28 against the person for an offense arising out of the transaction for
1-29 which the person was arrested and:

1-30 (a) the applicable limitations period
1-31 expired before the date on which a petition for expunction was filed
1-32 under Article 55.02; or

1-33 (b) the court finds that there is
1-34 reasonable cause to believe the state will not proceed against the
1-35 person for an offense arising out of the transaction for which the
1-36 person was arrested; or

1-37 (ii) [~~or~~] if an indictment or information
1-38 charging the person with commission of a felony was presented
1-39 against the person for an offense arising out of the transaction for
1-40 which the person was arrested, the indictment or information has
1-41 been dismissed or quashed [~~or~~] and:

1-42 (a) [~~(i)~~] the applicable limitations
1-43 period expired before the date on which a petition for expunction
1-44 was filed under Article 55.02; [~~or~~]

1-45 (b) [~~(ii)~~] the court finds that the
1-46 indictment or information was dismissed or quashed because the
1-47 presentment had been made because of mistake, false information, or
1-48 other similar reason indicating absence of probable cause at the
1-49 time of the dismissal to believe the person committed the offense or
1-50 because it was void; or

1-51 (c) the court finds that there is
1-52 reasonable cause to believe the state will not proceed against the
1-53 person for an offense arising out of the transaction for which the
1-54 person was arrested;

1-55 (B) the person has been released and the charge,
1-56 if any, has not resulted in a final conviction and is no longer
1-57 pending and there was no court ordered community supervision under
1-58 Article 42.12 for any offense other than a Class C misdemeanor; and

1-59 (C) the person has not been convicted of a felony
1-60 in the five years preceding the date of the arrest.

1-61 SECTION 2. The change in law made by this Act applies to a
1-62 person seeking expunction of records relating to an arrest
1-63 regardless of whether the arrest occurred before, on, or after the

2-1 effective date of this Act.

2-2 SECTION 3. This Act takes effect immediately if it receives
2-3 a vote of two-thirds of all the members elected to each house, as
2-4 provided by Section 39, Article III, Texas Constitution. If this
2-5 Act does not receive the vote necessary for immediate effect, this
2-6 Act takes effect September 1, 2009.

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