

By: West, Shapiro

S.B. No. 1454

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(B) convicted and subsequently pardoned; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Article 42.12 for any offense except for a Class C misdemeanor, provided that [~~each of the following conditions exist~~]:

(A) an indictment or information charging the person with the commission of a felony or misdemeanor:

(i) has not been presented within the previous 180 days against the person for an offense arising out of

1 the transaction for which the person was arrested; or

2 (ii) [~~, if an indictment or information~~  
3 ~~charging the person with commission of a felony was presented, the~~  
4 ~~indictment or information]~~ has been dismissed or quashed for more  
5 than 180 days, and~~+~~

6 [~~(i) the limitations period expired before~~  
7 ~~the date on which a petition for expunction was filed under Article~~  
8 ~~55.02, or~~

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

15 (B) prosecution of the person for the offense for  
16 which the person was arrested is no longer possible because the  
17 limitations period has expired [~~the person has been released and~~  
18 ~~the charge, if any, has not resulted in a final conviction and is no~~  
19 ~~longer pending and there was no court ordered community supervision~~  
20 ~~under Article 42.12 for any offense other than a Class C~~  
21 ~~misdemeanor, and~~

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

24 SECTION 2. Subsection (a-1), Article 55.01, Code of  
25 Criminal Procedure, is repealed.

26 SECTION 3. The change in law made by this Act applies to a  
27 person seeking expunction of records relating to an arrest

1 regardless of whether the arrest occurred before, on, or after the  
2 effective date of this Act.

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