

1-1 By: West S.B. No. 1454
1-2 (In the Senate - Filed March 6, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 5, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 5, 2009, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1454 By: Whitmire
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) the person has been released and the charge, if
1-25 any, has not resulted in a final conviction and is no longer pending
1-26 and there was no court-ordered community supervision under Article
1-27 42.12 for any offense except for a Class C misdemeanor, provided
1-28 that [each of the following conditions exist]:

1-29 (A) an indictment or information charging the
1-30 person with the commission of a felony or misdemeanor:

1-31 (i) has not been presented within the
1-32 previous 180 days against the person for an offense arising out of
1-33 the transaction for which the person was arrested; or

1-34 (ii) [~~, if an indictment or information~~
1-35 ~~charging the person with commission of a felony was presented, the~~
1-36 ~~indictment or information~~] has been dismissed or quashed for more
1-37 than 180 days, and [+

1-38 [~~(i) the limitations period expired before~~
1-39 ~~the date on which a petition for expunction was filed under Article~~
1-40 ~~55.02, or~~

1-41 [~~(ii)]~~ the court finds that the indictment
1-42 or information was dismissed or quashed because the presentment had
1-43 been made because of mistake, false information, or other similar
1-44 reason indicating absence of probable cause at the time of the
1-45 dismissal to believe the person committed the offense or because it
1-46 was void; or

1-47 (B) prosecution of the person for the offense for
1-48 which the person was arrested is no longer possible because the
1-49 limitations period has expired [~~the person has been released and~~
1-50 ~~the charge, if any, has not resulted in a final conviction and is no~~
1-51 ~~longer pending and there was no court ordered community supervision~~
1-52 ~~under Article 42.12 for any offense other than a Class C~~
1-53 ~~misdemeanor, and~~

1-54 [~~(C) the person has not been convicted of a~~
1-55 ~~felony in the five years preceding the date of the arrest].~~

1-56 SECTION 2. Subsection (a-1), Article 55.01, Code of
1-57 Criminal Procedure, is repealed.

1-58 SECTION 3. The change in law made by this Act applies to a
1-59 person seeking expunction of records relating to an arrest
1-60 regardless of whether the arrest occurred before, on, or after the
1-61 effective date of this Act.

1-62 SECTION 4. This Act takes effect immediately if it receives
1-63 a vote of two-thirds of all the members elected to each house, as

2-1 provided by Section 39, Article III, Texas Constitution. If this
2-2 Act does not receive the vote necessary for immediate effect, this
2-3 Act takes effect September 1, 2009.

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