

By: Shapleigh

S.B. No. 1517

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. Article 55.01(a), 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) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article

1 55.02 or the office of the attorney representing the case agreed to  
2 waive any limitations period that remained in effect on the date the  
3 petition was filed; or

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

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

14 (C) the person has not been convicted of a felony  
15 in the five years preceding the date of the arrest.

16 SECTION 2. The change in law made by this Act applies to a  
17 person who, on or after the effective date of this Act, seeks the  
18 expunction of records and files relating to an arrest, regardless  
19 of whether the arrest occurred before, on, or after the effective  
20 date of this Act.

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