

By: West

S.B. No. 1916

A BILL TO BE ENTITLED

AN ACT

relating to the automatic expunction of arrest records and files
pertaining to an individual who has been pardoned.

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

SECTION 1. Article 55.02, Code of Criminal Procedure, is
amended by adding Section 1a to read as follows:

Sec. 1a. (a) The trial court presiding over a case in which
a defendant is convicted and subsequently pardoned, if the trial
court is a district court, or a district court in the county in
which the trial court is located, shall enter an order of expunction
for a person entitled to expunction under Article 55.01(a)(1)(B)
not later than the 30th day after the date the court receives notice
of the pardon. The person shall provide to the district court all
of the information required in a petition for expunction under
Section 2(b).

(b) The attorney for the state shall prepare an expunction
order under this section for the court's signature.

(c) The court shall include in an expunction order under
this section a listing of each official, agency, or other entity of
this state or political subdivision of this state and each private
entity that there is reason to believe has any record or file that
is subject to the order. The court shall also provide in an
expunction order under this section that the Department of Public
Safety and the Texas Department of Criminal Justice shall:

1 (1) return all records and files that are subject to
2 the expunction order to the court; and

3 (2) delete from its public records all index
4 references to the records and files that are subject to the
5 expunction order.

6 (d) The court shall retain all records and files provided to
7 the court under Subsection (c) until the statute of limitations has
8 run for any civil case or proceeding relating to the wrongful
9 imprisonment of the person subject to the expunction order.

10 SECTION 2. Section 2(a), Article 55.02, Code of Criminal
11 Procedure, is amended to read as follows:

12 (a) A person who is entitled to expunction of records and
13 files under Article 55.01(a)(2) [~~55.01(a)~~] or a person who is
14 eligible for expunction of records and files under Article 55.01(b)
15 may file an ex parte petition for expunction in a district court for
16 the county in which:

17 (1) the petitioner was arrested; or

18 (2) the offense was alleged to have occurred.

19 SECTION 3. Section 3(c), Article 55.02, Code of Criminal
20 Procedure, is amended to read as follows:

21 (c) When the order of expunction is final, the clerk of the
22 court shall send a certified copy of the order to the Crime Records
23 Service of the Department of Public Safety and to each official or
24 agency or other governmental entity of this state or of any
25 political subdivision of this state named in [~~designated by the~~
26 ~~person who is the subject of~~] the order. The certified copy of the
27 order must be sent by secure electronic mail, electronic

1 transmission, or facsimile transmission or otherwise by certified
2 mail, return receipt requested. In sending the order to a
3 governmental entity named in the order [~~designated by the person~~],
4 the clerk may elect to substitute hand delivery for certified mail
5 under this subsection, but the clerk must receive a receipt for that
6 hand-delivered order.

7 SECTION 4. Section 5(a), Article 55.02, Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) Except as provided by Subsections (f) and (g), on
10 receipt of the order, each official or agency or other governmental
11 entity named in the order shall:

12 (1) return all records and files that are subject to
13 the expunction order to the court or in cases other than those
14 described by Section 1a, if removal is impracticable, obliterate
15 all portions of the record or file that identify the person who is
16 the subject of the order and notify the court of its action; and

17 (2) delete from its public records all index
18 references to the records and files that are subject to the
19 expunction order.

20 SECTION 5. This Act applies only to the expunction of arrest
21 records related to a criminal offense for which a pardon was granted
22 on or after the effective date of this Act. Expunction based on a
23 pardon that was granted before the effective date of this Act is
24 governed by the law in effect at the time the pardon was granted,
25 and the former law is continued in effect for that purpose.

26 SECTION 6. This Act takes effect September 1, 2009.