

Amend CSHB 351 (house committee report) as follows:

(1) On page 1, lines 5-6, strike the introductory clause and substitute the following:

Article 55.01, Code of Criminal Procedure, is amended by amending Subsections (a), (a-1), (b), and (c) and adding Subsection (a-2) to read as follows:

(2) On page 2, lines 1-2, strike "any offense arising out of the transaction for which the person was arrested, except for" and substitute "the offense, unless the offense is".

(3) On page 2, line 11, between "and" and "the attorney", insert the following:

:

(a) at least 180 days have elapsed from the date of arrest if the arrest was for an offense punishable as a Class C misdemeanor;

(b) at least one year has elapsed from the date of arrest if the arrest was for an offense punishable as a Class B or A misdemeanor;

(c) at least two years have elapsed from the date of arrest if the arrest was for an offense punishable as a felony; or

(d)

(4) On page 2, line 15, strike "or".

(5) On page 2, lines 17-20, strike [~~an indictment or information charging the person with commission of a felony was~~] presented at any time following the arrest, was[~~, the indictment or information has been~~] dismissed or quashed" and substitute the following:

an indictment or information charging the person with commission of a misdemeanor [~~felony~~] was presented at any time following the arrest, was[~~, the indictment or information has been~~] dismissed or quashed; or

(iii) if an indictment or information charging the person with commission of a felony was presented at any time following the arrest, was dismissed or quashed

(6) On page 3, between lines 21 and 22, insert the following:

(a-2) Notwithstanding any other provision of this article, a person who intentionally or knowingly absconds from the

jurisdiction after being released under Chapter 17 following an arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or (c) or Subsection (a)(2)(B) for an expunction of the records and files relating to that arrest.

(7) Add the following appropriately numbered SECTION to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 4, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its expunction order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(a-1) The court may provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of any person who becomes entitled to an expunction of those records and files based on the expiration of a period described by Article 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of the prosecuting attorney as described by Article 55.01(a)(2)(A)(i)(d).

(a-2) In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation

hearing, punishment hearing, or bond hearing; or

(B) a civil case, including a civil suit or suit for possession of or access to a child.

(b) Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (a-2) [~~(a) of this section~~], the provisions of Articles 55.03 and 55.04 [~~of this code~~] apply to files and records retained under this section.