

BILL ANALYSIS

Senate Research Center
82R2247 JSC-F

H.B. 2889
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to Department of Public Safety reports and interested parties, Texas law enforcement officers made over one million arrests in a recent year and in a small number of these arrests prosecutors declined to pursue criminal charges. The parties contend that arrest records in cases that do not result in prosecution should not be used against an individual attempting to secure education, housing, credit, and employment. They further note that criminal records, once maintained on paper in various government offices, are now consolidated and publicly available for a small price on the Internet, and they assert that the law must evolve to maintain careful and appropriate control of these records to avoid unnecessary harm to individuals who are presumed innocent.

H.B. 2889 attempts to ensure that arrest records do not interfere with education, housing, credit, or employment opportunities when prosecutors decide not to pursue criminal charges against an individual. H.B. 2889 seeks to address this matter relating to the expunction of records and files relating to a person's arrest. H.B. 2889 amends the Code of Criminal Procedure to add, as an alternative condition that must be met for a person who has been placed under a custodial or noncustodial arrest for commission of a felony or misdemeanor to be entitled to expunction of all arrest records and files when 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 arrest or has been presented and subsequently dismissed or quashed, the condition that an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested declines to prosecute the offense and, after receiving notice of a request or petition for expunction of all records and files to the arrest, does not object to the court entering an order of expunction.

H.B. 2889 amends current law relating to the expunction of records and files relating to a person's arrest.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 55.01(a), Code of Criminal Procedure, to entitle a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged if certain circumstances and certain conditions exist, including that an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested declines to prosecute the offense and, after receiving notice of a request or petition for expunction of all records and files relating to the arrest, does not object to the court entering an order of expunction under Article 55.02 (Procedure for Expunction).

SECTION 2. Provides that this Act applies to an expunction of arrest records and files for any criminal offense that occurred before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2011.