

BILL ANALYSIS

H.B. 2889
By: Madden
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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. This bill 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.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

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.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.