

By: Johnson

H.B. No. 3181

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) either:

(i) an indictment or information charging the person with the commission of a felony or misdemeanor arising out of the transaction for which the person was arrested:

(a) has not been presented against the person and the court finds that the reason that such an indictment or information has not been presented is because, at the time of the hearing under Article 55.02, there is an absence of probable cause

1 to believe the person committed an offense arising out of the
2 transaction for which the person was arrested; or

3 (b) has been [~~for an offense arising~~
4 ~~out of the transaction for which the person was arrested or, if an~~
5 ~~indictment or information charging the person with commission of a~~
6 ~~felony was~~] presented against the person, but was subsequently [~~the~~
7 ~~indictment or information has been~~] dismissed or quashed, and:

8 (1) [(i) the limitations period
9 expired before the date on which a petition for expunction was filed
10 under Article 55.02; or

11 [(ii)] the court finds that the indictment
12 or information was dismissed or quashed because the person
13 successfully completed a pretrial intervention program authorized
14 under Section 76.011, Government Code; i [✓] or

15 (2) the court finds that the
16 indictment or information was dismissed or quashed because the
17 presentment had been made because of mistake, false information, or
18 other similar reason indicating absence of probable cause at the
19 time of the dismissal to believe the person committed the offense,
20 or because the indictment or information [~~it~~] was void; or

21 (ii) the limitations period expired before
22 the date on which a petition was filed under Article 55.02;

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

27 (C) the person has not been convicted of a felony

1 in the five years preceding the date of the arrest.

2 SECTION 2. The change in law made by this Act applies to a
3 person seeking expunction of records and files relating to an
4 arrest regardless of whether the arrest occurred before, on, or
5 after the effective date of this Act.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2011.