

By: Alonzo

H.B. No. 3208

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of criminal records.

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

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended to read as follows:

Art. 55.01. RIGHT TO EXPUNCTION. (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); or

(B) convicted and subsequently:

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

(2) ~~the person has been released and~~ the charge is dismissed, ~~if any,~~ has not resulted in a final conviction, ~~and~~ is no longer pending, and there was no court-ordered community supervision under

1 Article 42.12 for the offense; or ~~unless the offense is a Class C~~  
2 ~~misdemeanor, provided that:~~

3 ~~(A) (3) regardless of whether any statute of limitations exists~~  
4 ~~for the offense and whether any limitations period for the offense~~  
5 ~~has expired, an indictment or information charging the person with~~  
6 ~~the commission of an misdemeanor offense ~~based on the person's~~~~  
7 ~~arrest or summons or charging the person with the commission of any~~  
8 ~~felony offense arising out of the same transaction for which the~~  
9 ~~person was arrested:~~

10 (i) has not been presented against the person at any time  
11 following the arrest and:

12 a) at least ~~180~~ 30 days have elapsed from the date of if the  
13 offense ~~arrest~~ for which the expunction was sought was for an  
14 offense punishable as a Class C misdemeanor and if there was no  
15 felony charge arising out of the same transaction for which the  
16 person was arrested;

17 (b) at least ~~one year~~ 90 days has elapsed from the date of arrest  
18 if the ~~arrest~~ offense for which the expunction was sought was for an  
19 offense punishable as a Class B or A misdemeanor and if there was no  
20 felony charge arising out of the same transaction for which the  
21 person was arrested;

22 (c) at least three years have elapsed from the date of the ~~arrest~~  
23 offense for which the expunction was sought was for an offense  
24 punishable as a felony or if there was a felony charge arising out  
25 of the same transaction for which the person was arrested; or

26 (d) the attorney representing the state certifies that the  
27 applicable arrest records and files are not needed for use in any

1 criminal investigation or prosecution, including an investigation  
2 or prosecution of another person; or

3           SECTION 2. The change in law made by this Act applies to the  
4 prosecution of an offense committed or on after the effective date  
5 of this Act. The prosecution of an offense committed before the  
6 effective date of this Act is covered by the law in effect when the  
7 offense was committed, and the former law is continued in effect for  
8 this purpose. For purposes of this section, an offense is committed  
9 before the effective date of this Act if any element of the offense  
10 occurs before the effective date.

11           SECTION 3. This Act takes effect September 1, 2013.