

By: Menéndez

S.B. No. 1310

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration of and eligibility for participation
3 in a veterans court program and the automatic expunction of arrest
4 records and files for certain veterans who successfully complete
5 that program; imposing a court cost on conviction to benefit
6 veterans court programs; changing a fee.

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

8 SECTION 1. Article 55.01(a), Code of Criminal Procedure, is
9 amended to read as follows:

10 (a) A person who has been placed under a custodial or
11 noncustodial arrest for commission of either a felony or
12 misdemeanor is entitled to have all records and files relating to
13 the arrest expunged if:

14 (1) the person is tried for the offense for which the
15 person was arrested and is:

16 (A) acquitted by the trial court, except as
17 provided by Subsection (c); or

18 (B) convicted and subsequently:

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

21 (ii) pardoned or otherwise granted relief
22 on the basis of actual innocence with respect to that offense, if
23 the applicable pardon or court order clearly indicates on its face
24 that the pardon or order was granted or rendered on the basis of the

1 person's actual innocence; or

2 (2) the person has been released and the charge, if
3 any, has not resulted in a final conviction and is no longer pending
4 and there was no court-ordered community supervision under Article
5 42.12 for the offense, unless the offense is a Class C misdemeanor,
6 provided that:

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

14 (i) has not been presented against the
15 person at any time following the arrest, and:

16 (a) at least 180 days have elapsed
17 from the date of arrest if the arrest for which the expunction was
18 sought was for an offense punishable as a Class C misdemeanor and if
19 there was no felony charge arising out of the same transaction for
20 which the person was arrested;

21 (b) at least one year has elapsed from
22 the date of arrest if the arrest for which the expunction was sought
23 was for an offense punishable as a Class B or A misdemeanor and if
24 there was no felony charge arising out of the same transaction for
25 which the person was arrested;

26 (c) at least three years have elapsed
27 from the date of arrest if the arrest for which the expunction was

1 sought was for an offense punishable as a felony or if there was a
2 felony charge arising out of the same transaction for which the
3 person was arrested; or

4 (d) the attorney representing the
5 state certifies that the applicable arrest records and files are
6 not needed for use in any criminal investigation or prosecution,
7 including an investigation or prosecution of another person; or

8 (ii) if presented at any time following the
9 arrest, was dismissed or quashed, and the court finds that the
10 indictment or information was dismissed or quashed because:

11 (a) the person completed a veterans
12 court program created under Chapter 124, Government Code, or former
13 law;

14 (b) the person completed a pretrial
15 intervention program authorized under Section 76.011, Government
16 Code, other than a veterans court program created under Chapter
17 124, Government Code, or former law;

18 (c) [~~because~~] the presentment had
19 been made because of mistake, false information, or other similar
20 reason indicating absence of probable cause at the time of the
21 dismissal to believe the person committed the offense; or

22 (d) [~~or because~~] the indictment or
23 information was void; or

24 (B) prosecution of the person for the offense for
25 which the person was arrested is no longer possible because the
26 limitations period has expired.

27 SECTION 2. Section 1a, Article 55.02, Code of Criminal

1 Procedure, is amended by adding Subsection (a-1) to read as
2 follows:

3 (a-1) A trial court dismissing a case following a person's
4 successful completion of a veterans court program created under
5 Chapter 124, Government Code, or former law, if the trial court is a
6 district court, or a district court in the county in which the trial
7 court is located shall enter an order of expunction for a person
8 entitled to expunction under Article 55.01(a)(2)(A)(ii)(a) not
9 later than the 30th day after the date the court dismisses the case
10 or receives the information regarding that dismissal, as
11 applicable.

12 SECTION 3. Section 2(a), Article 55.02, Code of Criminal
13 Procedure, is amended to read as follows:

14 (a) A person who is entitled to expunction of records and
15 files under Article 55.01(a)(1)(B)(i) or under Article
16 55.01(a)(2), other than Article 55.01(a)(2)(A)(ii)(a), or a person
17 who is eligible for expunction of records and files under Article
18 55.01(b) may file an ex parte petition for expunction in a district
19 court for the county in which:

- 20 (1) the petitioner was arrested; or
21 (2) the offense was alleged to have occurred.

22 SECTION 4. Subchapter A, Chapter 102, Code of Criminal
23 Procedure, is amended by adding Article 102.0179 to read as
24 follows:

25 Art. 102.0179. COST ON CONVICTION TO BENEFIT VETERANS COURT
26 PROGRAMS. (a) In addition to other costs on conviction imposed by
27 this chapter, to benefit veterans court programs in this state a

1 person shall pay \$2 as a court cost on conviction of any misdemeanor
2 or felony offense.

3 (b) For purposes of this article, a person is considered to
4 have been convicted if:

5 (1) a sentence is imposed; or

6 (2) the defendant receives community supervision or
7 deferred adjudication.

8 (c) Court costs under this article are collected in the same
9 manner as other fines or costs. An officer collecting the costs
10 shall keep separate records of the funds collected as costs under
11 this article and shall deposit the funds in the county treasury, as
12 appropriate.

13 (d) The custodian of a county treasury shall:

14 (1) keep records of the amount of funds on deposit
15 collected under this article; and

16 (2) except as provided by Subsection (e), send to the
17 comptroller before the last day of the first month following each
18 calendar quarter the funds collected under this article during the
19 preceding quarter.

20 (e) If a county has established a veterans court program or
21 establishes a veterans court program before the expiration of the
22 calendar quarter, the county is entitled to retain 60 percent of the
23 funds collected under this article by an officer of the county
24 during the calendar quarter to be used exclusively for the
25 development and maintenance of veterans court programs operated
26 within the county.

27 (f) If no funds due as costs under this article are

1 deposited in a county treasury in a calendar quarter, the custodian
2 of the treasury shall file the report required for the quarter in
3 the regular manner and must state that no funds were collected.

4 (g) The comptroller shall deposit the funds received under
5 this article to the credit of the veterans court account in the
6 general revenue fund to help fund veterans court programs
7 established under Chapter 124, Government Code, or former law. The
8 legislature shall appropriate money from the account solely to the
9 criminal justice division of the governor's office for distribution
10 to veterans court programs that apply for the money.

11 (h) Funds collected under this article are subject to audit
12 by the comptroller.

13 SECTION 5. Subchapter B, Chapter 102, Government Code, is
14 amended by adding Section 102.02111 to read as follows:

15 Sec. 102.02111. ADDITIONAL COURT COSTS ON CONVICTION: CODE
16 OF CRIMINAL PROCEDURE. A person convicted of a misdemeanor or
17 felony offense shall pay, in addition to all other costs, a court
18 cost on conviction to benefit veterans court programs in this state
19 (Art. 102.0179, Code of Criminal Procedure). . . \$2.

20 SECTION 6. Section 103.0271, Government Code, is amended to
21 read as follows:

22 Sec. 103.0271. ADDITIONAL MISCELLANEOUS FEES AND COSTS:
23 GOVERNMENT CODE. Fees and costs shall be paid or collected under
24 the Government Code as follows:

25 (1) a program fee for a drug court program (Sec.
26 123.004, Government Code) . . . not to exceed \$1,000;

27 (2) an alcohol or controlled substance testing,

1 counseling, and treatment fee (Sec. 123.004, Government
2 Code) . . . the amount necessary to cover the costs of testing,
3 counseling, and treatment;

4 (3) a reasonable program fee for a veterans court
5 program (Sec. 124.005, Government Code) . . . not to exceed \$500
6 [~~\$1,000~~]; and

7 (4) a testing, counseling, and treatment fee for
8 testing, counseling, or treatment performed or provided under a
9 veterans court program (Sec. 124.005, Government Code) . . . the
10 amount necessary to cover the costs of testing, counseling, or
11 treatment.

12 SECTION 7. Section 124.001(b), Government Code, is amended
13 to read as follows:

14 (b) If a defendant successfully completes a veterans court
15 program [~~as authorized under Section 76.011~~], after notice to the
16 attorney representing the state and a hearing in the veterans court
17 at which that court determines that a dismissal is in the best
18 interest of justice, the veterans court shall provide to the court
19 in which the criminal case is pending information about the
20 dismissal and shall include all of the information required for a
21 petition for expunction under Section 2(b), Article 55.02, Code of
22 Criminal Procedure. The court in which the criminal case is pending
23 shall dismiss the criminal action against the defendant and:

24 (1) if that trial court is a district court, the court
25 shall enter an order of expunction on behalf of the defendant under
26 Section 1a(a-1), Article 55.02, Code of Criminal Procedure; or

27 (2) if that trial court is not a district court, the

1 court shall forward the appropriate dismissal and expunction
2 information to a district court with jurisdiction to enter an order
3 of expunction on behalf of the defendant under Section 1a(a-1),
4 Article 55.02, Code of Criminal Procedure.

5 SECTION 8. Section 124.002(a), Government Code, is amended
6 to read as follows:

7 (a) The commissioners court of a county may establish a
8 veterans court program for persons arrested for or charged with any
9 misdemeanor or felony offense. A defendant is eligible to
10 participate in a veterans court program established under this
11 chapter only if the attorney representing the state consents to the
12 defendant's participation in the program and if the court in which
13 the criminal case is pending finds that the defendant[+]

14 [~~(1)~~] is a veteran or current member of the United
15 States armed forces, including a member of the reserves, national
16 guard, or state guard[~~, and~~

17 [~~(2) suffers from a brain injury, mental illness, or~~
18 ~~mental disorder, including post-traumatic stress disorder, that:~~

19 [~~(A) resulted from the defendant's military~~
20 ~~service in a combat zone or other similar hazardous duty area, and~~

21 [~~(B) materially affected the defendant's~~
22 ~~criminal conduct at issue in the case].~~

23 SECTION 9. Section 124.005(a), Government Code, is amended
24 to read as follows:

25 (a) A veterans court program established under this chapter
26 may collect from a participant in the program:

27 (1) a reasonable program fee not to exceed \$500

1 [~~\$1,000~~]; and

2 (2) a testing, counseling, and treatment fee in an
3 amount necessary to cover the costs of any testing, counseling, or
4 treatment performed or provided under the program.

5 SECTION 10. Chapter 124, Government Code, is amended by
6 adding Section 124.006 to read as follows:

7 Sec. 124.006. TRANSFER OF SUPERVISION. A veterans court
8 program may transfer responsibility for a participant's
9 supervision to another veterans court program in the participant's
10 county of residence or to a different county selected by the
11 participant.

12 SECTION 11. Section 124.002(c), Government Code, is
13 repealed.

14 SECTION 12. (a) The changes in law made by this Act to
15 Chapter 55, Code of Criminal Procedure, and to Section 124.001(b),
16 Government Code, apply to the expunction of arrest records and
17 files for a person who successfully completes a veterans court
18 program under Chapter 124, Government Code, or former law, before,
19 on, or after the effective date of this Act, regardless of when the
20 underlying arrest occurred.

21 (b) For a person who is entitled to expunction under Article
22 55.01(a)(2)(A)(ii)(a), Code of Criminal Procedure, as amended by
23 this Act, based on a successful completion of a veterans court
24 program under Chapter 124, Government Code, or former law, before
25 the effective date of this Act, notwithstanding the 30-day time
26 limit provided for the court to enter an automatic order of
27 expunction under Section 1a(a-1), Article 55.02, Code of Criminal

1 Procedure, as added by this Act, the court shall enter an order of
2 expunction for the person as soon as practicable after the court
3 receives written notice from any party to the case about the
4 person's entitlement to the expunction.

5 (c) Article 102.0179, Code of Criminal Procedure, as added
6 by this Act, applies only to a cost on conviction for an offense
7 committed on or after the effective date of this Act. An offense
8 committed before the effective date of this Act is governed by the
9 law in effect on the date the offense was committed, and the former
10 law is continued in effect for that purpose. For purposes of this
11 subsection, an offense was committed before the effective date of
12 this Act if any element of the offense occurred before that date.

13 (d) The change in law made by this Act to Sections
14 [124.002\(a\)](#) and [124.005\(a\)](#), Government Code, applies to a person
15 who, on or after the effective date of this Act, enters a veterans
16 court program under Chapter 124, Government Code, regardless of
17 whether the person committed the offense for which the person
18 enters the program before, on, or after the effective date of this
19 Act.

20 (e) The change in law made by this Act in adding Section
21 124.006, Government Code, applies to a person who, on or after the
22 effective date of this Act, is under the supervision of a veterans
23 court program.

24 SECTION 13. To the extent of any conflict, this Act prevails
25 over another Act of the 84th Legislature, Regular Session, 2015,
26 relating to nonsubstantive additions to and corrections in enacted
27 codes.

1 SECTION 14. This Act takes effect September 1, 2015.