

By: West

S.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for expunction for certain defendants.

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

SECTION 1. Section 1a, Article 55.02, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The trial court presiding over a case in which a person ~~[defendant]~~ is entitled to expunction under Article 55.01(a) ~~[convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the defendant was convicted]~~, if the trial court is a district court, or a district court in the county in which the trial court is located shall enter an order of expunction for the [a] person [entitled to expunction under Article 55.01(a)(1)(B)(ii)] not later than the 30th day after the date the person first becomes entitled to expunction based on a circumstance described under that subsection ~~[court receives notice of the pardon or other grant of relief]~~.

(a-1) The person entitled to expunction shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

SECTION 2. Sections 2(a) and (d), Article 55.02, Code of Criminal Procedure, are amended to read as follows:

(a) A person who is ~~[entitled to expunction of records and files under Article 55.01(a)(1)(B)(i) or 55.01(a)(2) or a person~~

1 ~~who is~~] eligible for expunction of records and files under Article  
2 55.01(b) may file an ex parte petition for expunction in a district  
3 court for the county in which:

4 (1) the petitioner was arrested; or

5 (2) the offense was alleged to have occurred.

6 (d) If the court finds that the petitioner, or a person for  
7 whom an ex parte petition is filed under Subsection (e), is entitled  
8 to expunction of any records and files that are the subject of the  
9 petition, the court [~~it~~] shall enter an order directing expunction.  
10 If the court finds that the petitioner or person is eligible for  
11 expunction of any records and files that are the subject of the  
12 petition, the court may enter an order directing expunction.

13 SECTION 3. Section 5(a), Article 55.02, Code of Criminal  
14 Procedure, is amended to read as follows:

15 (a) Except as provided by Subsections (f) and (g), on  
16 receipt of the order, each official or agency or other governmental  
17 entity named in the order shall:

18 (1) return all records and files that are subject to  
19 the expunction order to the court, or in cases other than cases in  
20 which a person was convicted and subsequently granted relief or  
21 pardoned on the basis of actual innocence of the offense of which  
22 the person was convicted, obliterate [~~those described by Section~~  
23 ~~1a~~], if removal is impracticable, [~~obliterate~~] all portions of the  
24 record or file that identify the person who is the subject of the  
25 order and notify the court of its action; and

26 (2) delete from its public records all index  
27 references to the records and files that are subject to the

1 expunction order.

2 SECTION 4. Section 1, Article 55.02, Code of Criminal  
3 Procedure, is repealed.

4 SECTION 5. (a) This Act applies to the expunction of arrest  
5 records and files for a person whose entitlement to expunction  
6 under Article 55.01(a), Code of Criminal Procedure, arises before,  
7 on, or after the effective date of this Act, regardless of when the  
8 underlying arrest occurred.

9 (b) For a person whose entitlement to expunction under  
10 Article 55.01(a), Code of Criminal Procedure, arises before the  
11 effective date of this Act, notwithstanding the 30-day time limit  
12 provided for the court to enter an automatic order of expunction  
13 under Section 1a(a), Article 55.02, Code of Criminal Procedure, as  
14 amended by this Act, the court shall enter an order of expunction  
15 for the person as soon as practicable after the court receives  
16 written notice from any party to the case about the person's  
17 entitlement to the expunction.

18 SECTION 6. This Act takes effect September 1, 2015.