

By: Dutton

H.B. No. 2049

A BILL TO BE ENTITLED

AN ACT

relating to automatic expunction of arrest records and files for certain persons who are tried for an offense and subsequently acquitted.

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

SECTION 1. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. ~~The [At the request of the defendant and after notice to the state, the]~~ trial court presiding over the case in which the person ~~[defendant]~~ was acquitted, 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 a person entitled to expunction under Article 55.01(a)(1)(A) not later than the 30th day after the date of the acquittal. ~~[Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b).]~~ The person's attorney ~~[for the defendant]~~ in the case in which the person ~~[defendant]~~ was acquitted, if the acquitted person ~~[defendant]~~ was represented by counsel, or the attorney for the state, if the acquitted person ~~[defendant]~~ was not represented by counsel, shall prepare the order for the court's signature. If the trial court is not a district court, the trial court shall forward the proposed order, and all information required in a petition for

1 expunction under Section 2(b), to a district court in the county to  
2 proceed in the manner provided by this section.

3       SECTION 2. (a) This Act applies to the expunction of arrest  
4 records and files for a person entitled to that expunction under  
5 Article 55.01(a)(1)(A), Code of Criminal Procedure, before, on, or  
6 after the effective date of this Act, regardless of when the  
7 underlying arrest occurred.

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

17       SECTION 3. This Act takes effect September 1, 2017.