

By: Neave

H.B. No. 3900

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain persons for the expunction
of arrest records and files.

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); 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, if
any, has not resulted in a final conviction and is no longer pending

1 and there was no court-ordered community supervision under Chapter
2 42A for the offense, unless the offense is a Class C misdemeanor,
3 provided that:

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

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

13 (a) at least 60 ~~[180]~~ days have
14 elapsed from the date of arrest if the arrest for which the
15 expunction was sought was for an offense punishable as a Class C
16 misdemeanor and if there was no felony charge arising out of the
17 same transaction for which the person was arrested;

18 (b) at least 180 days have ~~[one year~~
19 ~~has]~~ elapsed from the date of arrest if the arrest for which the
20 expunction was sought was for an offense punishable as a Class B or
21 A misdemeanor and if there was no felony charge arising out of the
22 same transaction for which the person was arrested;

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

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

5 (ii) if presented at any time following the
6 arrest, was dismissed or quashed, and the court finds that the
7 indictment or information was dismissed or quashed because the
8 person completed a pretrial intervention program authorized under
9 Section 76.011, Government Code, because the presentment had been
10 made because of mistake, false information, or other similar reason
11 indicating absence of probable cause at the time of the dismissal to
12 believe the person committed the offense, or because the indictment
13 or information was void; or

14 (B) prosecution of the person for the offense for
15 which the person was arrested is no longer possible because the
16 limitations period has expired.

17 SECTION 2. The changes in law made by this Act apply to the
18 expunction of arrest records and files for any criminal offense
19 that occurred before, on, or after the effective date of this Act.

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