

**House Bill 557**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (c) and subject to Subsection (b-1), a district court, a justice court, or a municipal court of record may expunge all records and files relating to the arrest of a person ~~[who has been arrested for commission of a felony or misdemeanor]~~ under the procedure established under Article 55.02 if:

(1) the person is:

- (A) tried for the offense for which the person was arrested;
- (B) convicted of the offense; and
- (C) acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the ~~[appropriate district]~~ court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

(b-1) A justice court or a municipal court of record may only expunge records and files under Subsection (b) that relate to the arrest of a person for an offense punishable by fine only.

SECTION 2. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. At the request of the acquitted person ~~[defendant]~~ and after notice to the state, or at the request of the attorney for the state with the consent of the acquitted person, the trial court presiding over the case in which the person ~~[defendant]~~ was acquitted, if the trial court is a district court, a justice court, or

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SECTION 1. Same as House version.

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a municipal court of record, 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. ~~On~~ ~~Upon~~ acquittal, the trial court shall advise the acquitted person [~~defendant~~] of the right to expunction. The party requesting the order of expunction [~~defendant~~] shall provide to the [~~district~~] court all of the information required in a petition for expunction under Section 2(b). The attorney for the acquitted person [~~defendant~~] in the case in which the person [~~defendant~~] was acquitted, if the person [~~defendant~~] was represented by counsel, or the attorney for the state, if the person [~~defendant~~] was not represented by counsel or if the attorney for the state requested the order of expunction, shall prepare the order for the court's signature.

SECTION 3. Section 1a(a), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) The trial court presiding over a case in which a person [~~defendant~~] is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the person [~~defendant~~] was convicted, if the trial court is a district court, a justice court, or a municipal court of record, 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)(B)(ii) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the [~~district~~] court all of the information required in a petition for expunction under Section 2(b).

SECTION 4. Section 2, Article 55.02, Code of Criminal

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Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) A person who is entitled to expunction of records and files under Article ~~55.01(a)(1)(A)~~, 55.01(a)(1)(B)(i), or 55.01(a)(2) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

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

(a-1) If the arrest for which expunction is sought is for an offense punishable by fine only, a person who is entitled to expunction of records and files under Article 55.01(a) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a justice court or a municipal court of record in the county in which:

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

(b) ~~A~~ [The] petition filed under Subsection (a) or (a-1) must be verified and must include the following or an explanation for why one or more of the following is not included:

- (1) the petitioner's:
  - (A) full name;
  - (B) sex;
  - (C) race;
  - (D) date of birth;
  - (E) driver's license number;
  - (F) social security number; and
  - (G) address at the time of the arrest;
- (2) the offense charged against the petitioner;
- (3) the date the offense charged against the petitioner was alleged to have been committed;

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- (4) the date the petitioner was arrested;
- (5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the petitioner;
- (7) the case number and court of offense; and
- (8) together with the applicable physical or e-mail addresses, a list of all:
  - (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;
  - (B) central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction; and
  - (C) private entities that compile and disseminate for compensation criminal history record information that the petitioner has reason to believe have information related to records or files that are subject to expunction.

SECTION 5. Article 102.006, Code of Criminal Procedure, is amended to read as follows:

Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record in a district court shall pay the following fees:

- (1) the fee charged for filing an ex parte petition in a civil action in district court;
- (2) \$1 plus postage for each certified mailing of notice of the hearing date; and

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SECTION 5. Article 102.006, Code of Criminal Procedure, is amended to read as follows:

Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record in a district court shall pay the following fees:

- (1) the fee charged for filing an ex parte petition in a civil action in district court;
- (2) \$1 plus postage for each certified mailing of notice of the hearing date; and

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(3) \$2 plus postage for each certified mailing of certified copies of an order of expunction.

(a-1) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record in a justice court or a municipal court of record under Chapter 55 shall pay a fee of \$100 for filing an ex parte petition for expunction to defray the cost of notifying state agencies of orders of expunction under that chapter.

(b) The fees under Subsection (a) or the fee under Subsection (a-1), as applicable, shall be waived if:

(1) the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, other than an acquittal for an offense described by Article 55.01(c); and

(2) the petition for expunction is filed not later than the 30th day after the date of the acquittal.

SECTION 6. Section 27.031, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A justice court has concurrent jurisdiction with a district court and a municipal court of record over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

SECTION 7. Section 30.00005, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The court has concurrent jurisdiction with a district court

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(3) \$2 plus postage for each certified mailing of certified copies of an order of expunction.

(a-1) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record in a justice court or a municipal court of record under Chapter 55 shall pay a fee of \$100 for filing an ex parte petition for expunction to defray the cost of notifying state agencies of orders of expunction under that chapter.

(b) The fees under Subsection (a) or the fee under Subsection (a-1), as applicable, shall be waived if:

(1) the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, other than an acquittal for an offense described by Article 55.01(c); and

(2) the petition for expunction is filed not later than the 30th day after the date of the acquittal.

(c) A court that grants a petition for expunction of a criminal record may order that any fee, or portion of a fee, required to be paid under this article or other law in relation to the petition be returned to the petitioner.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

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and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

SECTION 8. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.02101 to read as follows:  
Sec. 103.02101. ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES: CODE OF CRIMINAL PROCEDURE. A petitioner filing an ex parte petition for expunction in a justice court or a municipal court of record shall pay a fee under Article 102.006, Code of Criminal Procedure, of \$100 to defray the costs of notifying state agencies of orders of expunction.

No equivalent provision.

SECTION 9. Section 202.001(b), Local Government Code, is amended to read as follows:

- (b) The following records may be destroyed without meeting the conditions of Subsection (a):
- (1) records the destruction or obliteration of which is directed by an expunction order issued by a [district] court pursuant to state law; and
  - (2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as

SECTION 8. Same as House version.

SECTION 9. Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0746 to read as follows:  
Sec. 411.0746. RETURN OF FEES. A court that issues an order of nondisclosure of criminal history record information under this subchapter may order that any fee, or portion of a fee, required to be paid under this subchapter or other law in relation to the order be returned to the person who is the subject of that order.

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exempt in a records retention schedule issued by the commission.

SECTION 10. (a) Except as provided by Subsection (b) of this section, this Act applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the effective date of this Act.

(b) Section 1, Article 55.02, Code of Criminal Procedure, as amended by this Act, applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files under Section 1, Article 55.02, Code of Criminal Procedure, related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

No equivalent provision.

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SECTION 11. (a) Except as otherwise provided by this section, this Act applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the effective date of this Act.

(b) Section 1, Article 55.02, Code of Criminal Procedure, as amended by this Act, applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files under Section 1, Article 55.02, Code of Criminal Procedure, related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

(c) Article 102.006(c), Code of Criminal Procedure, as added by this Act, applies only to a petition for expunction filed on or after the effective date of this Act. A petition for expunction filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

SECTION 12. Section 411.0746, Government Code, as added by this Act, applies only to an order of nondisclosure of criminal history record information issued on or after the effective date of this Act. The issuance of an order of nondisclosure of criminal history record information before the effective date of this Act is governed by the law in effect on the date the order was issued, and the former law is

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SECTION 11. This Act takes effect September 1, 2017.

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continued in effect for that purpose.

SECTION 13. Same as House version.

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