

By: Wu

H.B. No. 1203

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files for a criminal offense for which a grand jury finds no bill of indictment.

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

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

23 (c) at least three years have elapsed
24 from the date of arrest if the arrest for which the expunction was
25 sought was for an offense punishable as a felony or if there was a
26 felony charge arising out of the same transaction for which the
27 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:

8 (a) the person completed a veterans
9 treatment court program created under Chapter 124, Government Code,
10 or former law, subject to Subsection (a-3);

11 (b) the person completed a mental
12 health court program created under Chapter 125, Government Code, or
13 former law, subject to Subsection (a-4);

14 (c) the person completed a pretrial
15 intervention program authorized under Section 76.011, Government
16 Code, other than a veterans treatment court program created under
17 Chapter 124, Government Code, or former law, or a mental health
18 court program created under Chapter 125, Government Code, or former
19 law;

20 (d) the presentment had been made
21 because of mistake, false information, or other similar reason
22 indicating absence of probable cause at the time of the dismissal to
23 believe the person committed the offense; or

24 (e) the indictment or information was
25 void; or

26 (B) prosecution of the person for the offense for
27 which the person was arrested is no longer possible because the

1 limitations period has expired; or
2 (3) the grand jury finds no bill of indictment for the
3 offense for which the person was arrested.

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

6 (a) A person who is entitled to expunction of records and
7 files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), [~~or~~]
8 55.01(a)(2), or 55.01(a)(3) or a person who is eligible for
9 expunction of records and files under Article 55.01(b) may file an
10 ex parte petition for expunction in a district court for the county
11 in which:

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

14 SECTION 3. The change in law made by this Act applies to the
15 expunction of arrest records and files for any criminal offense
16 that occurred before, on, or after the effective date of this Act.

17 SECTION 4. This Act takes effect September 1, 2021.