

By: Herrero

H.B. No. 3022

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of arrest records and files by a statutory county court.

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

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

(b) Except as provided by Subsection (c) and subject to Subsections [Subsection] (b-1) and (b-2), a district court, a statutory county court, a justice court, or a municipal court of record may expunge all records and files relating to the arrest of a person 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 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

1 the offense.

2 (b-2) A statutory county court may only expunge records and  
3 files under Subsection (b) that relate to the arrest of a person for  
4 an offense that is subject to the jurisdiction of a statutory county  
5 court.

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

8 Sec. 1. At the request of the acquitted person and after  
9 notice to the state, or at the request of the attorney for the state  
10 with the consent of the acquitted person, the trial court presiding  
11 over the case in which the person was acquitted, if the trial court  
12 is a district court, a statutory county court, a justice court, or a  
13 municipal court of record, or a district court in the county in  
14 which the trial court is located shall enter an order of expunction  
15 for a person entitled to expunction under Article 55.01(a)(1)(A)  
16 not later than the 30th day after the date of the acquittal. On  
17 acquittal, the trial court shall advise the acquitted person of the  
18 right to expunction. The party requesting the order of expunction  
19 shall provide to the court all of the information required in a  
20 petition for expunction under Section 2(b). The attorney for the  
21 acquitted person in the case in which the person was acquitted, if  
22 the person was represented by counsel, or the attorney for the  
23 state, if the person was not represented by counsel or if the  
24 attorney for the state requested the order of expunction, shall  
25 prepare the order for the court's signature.

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

1           (a) The trial court presiding over a case in which a person  
2 is convicted and subsequently granted relief or pardoned on the  
3 basis of actual innocence of the offense of which the person was  
4 convicted, if the trial court is a district court, a statutory  
5 county court, a justice court, or a municipal court of record, or a  
6 district court in the county in which the trial court is located  
7 shall enter an order of expunction for a person entitled to  
8 expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th  
9 day after the date the court receives notice of the pardon or other  
10 grant of relief. The person shall provide to the court all of the  
11 information required in a petition for expunction under Section  
12 2(b).

13           SECTION 4. Section 2, Article 55.02, Code of Criminal  
14 Procedure, is amended by adding Subsection (a-2) and amending  
15 Subsection (b) to read as follows:

16           (a-2) If the arrest for which expunction is sought is for an  
17 offense that is subject to the jurisdiction of a statutory county  
18 court, a person who is entitled to expunction of records and files  
19 under Article 55.01(a)(1)(A) or a person who is eligible for  
20 expunction of records and files under Article 55.01(b) may file an  
21 ex parte petition for expunction in a statutory county court in the  
22 county in which:

23                   (1) the petitioner was arrested; or

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

25           (b) A petition filed under Subsection (a), ~~(a-1)~~, or  
26 (a-2) must be verified and must include the following or an  
27 explanation for why one or more of the following is not included:

- 1           (1) the petitioner's:
  - 2               (A) full name;
  - 3               (B) sex;
  - 4               (C) race;
  - 5               (D) date of birth;
  - 6               (E) driver's license number;
  - 7               (F) social security number; and
  - 8               (G) address at the time of the arrest;
- 9           (2) the offense charged against the petitioner;
- 10           (3) the date the offense charged against the  
11 petitioner was alleged to have been committed;
- 12           (4) the date the petitioner was arrested;
- 13           (5) the name of the county where the petitioner was  
14 arrested and if the arrest occurred in a municipality, the name of  
15 the municipality;
- 16           (6) the name of the agency that arrested the  
17 petitioner;
- 18           (7) the case number and court of offense; and
- 19           (8) together with the applicable physical or e-mail  
20 addresses, a list of all:
  - 21               (A) law enforcement agencies, jails or other  
22 detention facilities, magistrates, courts, prosecuting attorneys,  
23 correctional facilities, central state depositories of criminal  
24 records, and other officials or agencies or other entities of this  
25 state or of any political subdivision of this state;
  - 26               (B) central federal depositories of criminal  
27 records that the petitioner has reason to believe have records or

1 files that are subject to expunction; and

2 (C) private entities that compile and  
3 disseminate for compensation criminal history record information  
4 that the petitioner has reason to believe have information related  
5 to records or files that are subject to expunction.

6 SECTION 5. Article 102.006(a-1), Code of Criminal  
7 Procedure, is amended to read as follows:

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

15 SECTION 6. Section 25.0003, Government Code, is amended by  
16 adding Subsection (g) to read as follows:

17 (g) A statutory county court has concurrent jurisdiction  
18 with a district court over expunction proceedings relating to the  
19 arrest of a person for an offense that is subject to the  
20 jurisdiction of a statutory county court.

21 SECTION 7. The change in law made by this Act applies to the  
22 expunction of arrest records and files for any criminal offense  
23 that occurred before, on, or after the effective date of this Act.

24 SECTION 8. This Act takes effect September 1, 2021.