

BILL ANALYSIS

H.B. 2193
By: Davis
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Individuals with a misdemeanor record face difficulties in finding employment, housing, and schooling. State law should be changed to allow for the automatic expunction of certain misdemeanor records of individuals after a certain time period if the individual has rehabilitated successfully and has not been convicted of further offenses. H.B. 2193 provides for the automatic expunction of certain misdemeanor records under specified conditions and after 10 years have elapsed after the misdemeanor is discharged.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2193 amends the Code of Criminal Procedure to entitle a person who has been placed under a custodial or noncustodial arrest for an offense to the expunction of all records and files related to the arrest, including, as applicable, any records and files related to the conviction of the offense, under the following conditions:

- the offense for which the person was arrested was a misdemeanor offense, other than a misdemeanor offense involving family violence, driving or operating a watercraft under the influence of alcohol as a minor, or certain intoxication and alcoholic beverage-related offenses;
- the person is convicted of or placed on deferred adjudication community supervision for the offense;
- the person has never been previously convicted of or placed on deferred adjudication community supervision for any offense involving family violence;
- the person has not been convicted of or placed on deferred adjudication community supervision for an offense, other than a fine-only traffic offense committed after the date of the commission of the misdemeanor offense;
- there are no charges pending against the person for the commission of any offense, other than a fine-only traffic offense; and
- a period of not less than 10 years has passed since the date on which, as applicable:
 - the person's sentence for the offense, including any term of confinement or period of community supervision imposed and payment of all fines and costs imposed, is fully discharged; or
 - the person received a dismissal and discharge for the offense.

The bill requires the court that convicted the person or placed the person on deferred adjudication community supervision, regardless of whether the person has filed a petition for expunction, to enter an order directing expunction in a manner consistent with the procedures for expunction under applicable state law not later than the 30th day after the date that the person becomes entitled to expunction, provided that the order does not apply to an opinion issued by an appellate court. The bill establishes that a person entitled to expunction under the bill's provisions is not required to pay any fee for the expunction.

H.B. 2193 amends the Business & Commerce Code and Government Code to include an expunction ordered under the bill's provisions in the scope of the following provisions:

- the authorization for a person to petition for the expunction of a DNA record if the person is entitled to expunction of records relating to the offense to which the DNA record is related;
- the prohibition against a business entity publishing any criminal record information in the entity's possession with respect to which the entity has knowledge or has received notice of the issuance of an order of expunction;
- the requirement for a private entity that compiles and disseminates for compensation criminal history record information to destroy any information in its possession with respect to which it has received notice of the issuance of an order of expunction and the prohibition against disseminating such information;
- the prohibition against a private entity that compiles and disseminates for compensation criminal history record information compiling or disseminating information with respect to which it has received notice of the issuance of an order of expunction; or
- the prohibition against the Department of Public Safety releasing any criminal history record information to a private entity that purchases such information and has been found by a court to have committed three or more violations of the prohibition against compiling or disseminating information relating to an issued order of expunction or order of nondisclosure of criminal history record information until the first anniversary of the most recent violation.

H.B. 2193 applies to an expunction of arrest records and files relating to any misdemeanor offense that was committed before, on or after the bill's effective date. With respect to a person entitled to expunction under the bill's provisions who completed the person's sentence or received a dismissal and discharge before September 1, 2013, the bill requires the court that convicted the person or placed the person on deferred adjudication community supervision to issue an order of expunction under the bill's provisions as soon as practicable after the bill's effective date, but not later than August 31, 2025.

EFFECTIVE DATE

September 1, 2023.