

## **BILL ANALYSIS**

H.B. 3686  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The integrity of the justice system must be upheld by not wrongfully attaching arrest records and files to individuals who are not guilty of the crime they were charged with due to proven laboratory analysis. Individuals charged in connection with drug crimes can face long-lasting consequences that drastically impact their lives. These circumstances become all the more unfair and unjust when the substances that were found in these individuals' possessions are determined to not be controlled substances once tested through laboratory analysis and the individuals' criminal records still reflect such a charge. H.B. 3686 seeks to address this issue by requiring that if a laboratory analysis of a suspected controlled substance ultimately finds no presence of said controlled substance, the case must be dismissed by a trial court and the information regarding the dismissal must be made public. In addition, the bill seeks to entitle such an individual to have the charges expunged from their criminal record and respective files.

### **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. 3686 amends the Code of Criminal Procedure to include among the people placed under a custodial or noncustodial arrest for a felony or misdemeanor offense who are entitled to have all records and files relating to the arrest expunged a person that has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision for the offense, unless the offense is a Class C misdemeanor, provided that an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because the person is charged solely with a misdemeanor or felony offense involving the manufacture, delivery, or possession of a controlled substance and a laboratory analysis of the suspected controlled substance finds no presence of a controlled substance. This provision applies only to the expunction of arrest records related to a charge for an offense that was dismissed, or an arrest made, on or after the bill's effective date.

H.B. 3686 requires a trial or district court, as applicable, dismissing a case following a laboratory analysis of a suspected controlled substance that finds no presence of a controlled substance to

enter an order of expunction for such a person entitled to expunction under the bill's provisions not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal. The bill prohibits a court entering an order for expunction from charging any fee or assessing any cost for the expunction. These provisions apply to the fees charged or costs assessed for an expunction order entered on or after the bill's effective date.

H.B. 3686 requires a court to enter an order of expunction for the person as soon as practicable after receiving written notice from any party to a case for a person who is entitled to expunction under the bill before the bill's effective date.

**EFFECTIVE DATE**

September 1, 2023.