88R7654 JCG-F

By:  Johnson S.B. No. 686

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for the expunction of arrest records and files for persons who complete certain court programs or pretrial intervention programs.

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

SECTION 1.  Sections 1a(a-1) and (a-2), Article 55.02, Code of Criminal Procedure, are redesignated as Section 1b, Article 55.02, Code of Criminal Procedure, and amended to read as follows:

Sec. 1b.  (a) [~~(a-1)~~] A trial court dismissing a case following a person's successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law, if the trial court is a district court, or a district court in the county in which the trial court is located shall [~~may, with the consent of the attorney representing the state,~~] enter an order of expunction for a person entitled to expunction under Article 55.01(a)(2)(A)(ii)(a) not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable. [~~Notwithstanding any other law, a court that enters an order for expunction under this subsection may not charge any fee or assess any cost for the expunction.~~]

(b) [~~(a-2)~~]  A trial court dismissing a case following a person's successful completion of a mental health court program created under Chapter 125, Government Code, or former law, if the trial court is a district court, or a district court in the county in which the trial court is located shall [~~may, with the consent of the attorney representing the state,~~] enter an order of expunction for a person entitled to expunction under Article 55.01(a)(2)(A)(ii)(b) not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable. [~~Notwithstanding any other law, a court that enters an order for expunction under this subsection may not charge any fee or assess any cost for the expunction.~~]

SECTION 2.  Section 1b, Article 55.02, Code of Criminal Procedure, as added by this Act, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c)  This subsection applies only to a pretrial intervention program authorized under Section 76.011, Government Code, other than a program described by Subsection (a) or (b) of this section. A trial court dismissing a case following a person's successful completion of a program to which this subsection applies, if the trial court dismissing the case is a district court, 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)(2)(A)(ii)(c) not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable.

(d)  The person for whom a court is required to enter an order of expunction under Subsection (a), (b), or (c), as applicable, shall provide to the attorney representing the state all of the information required in a petition for expunction under Section 2(b). The attorney representing the state shall prepare an expunction order under this section for the court's signature.

(e)  Notwithstanding any other law, a court that enters an order for expunction under this section may not charge any fee or assess any cost for the expunction.

SECTION 3.  Section 5, Article 55.02, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h)  Notwithstanding any other provision of this section, a community supervision and corrections department established under Chapter 76, Government Code, or an office of an attorney representing the state, in possession of records and files subject to an expunction order based on an entitlement under Article 55.01(a)(2)(A)(ii)(a), (b), or (c) may retain and use those records and files only for the purpose of developing and operating pretrial intervention programs in a judicial district served by the department or office.

SECTION 4.  Article 102.006(b-1), Code of Criminal Procedure, is amended to read as follows:

(b-1)  The fees under Subsection (a) shall be waived if the petitioner is entitled to expunction:

(1)  under Article 55.01(a)(2)(A)(ii)(a) after successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law; [~~or~~]

(2)  under Article 55.01(a)(2)(A)(ii)(b) after successful completion of a mental health court program created under Chapter 125, Government Code, or former law; or

(3)  under Article 55.01(a)(2)(A)(ii)(c) after successful completion of a pretrial intervention program authorized under Section 76.011, Government Code.

SECTION 5.  (a)  Except as provided by Subsection (b) of this section and subject to Subsection (c) of this section, this Act applies, regardless of when the underlying arrest occurred, to the expunction of arrest records and files for a person who successfully completes any of the following programs before, on, or after the effective date of this Act:

(1)  a veterans treatment court program under Chapter 124, Government Code, or former law;

(2)  a mental health court program under Chapter 125, Government Code, or former law; or

(3)  a pretrial intervention program authorized under Section 76.011, Government Code.

(b)  The change in law made by this Act to Article 102.006, Code of Criminal Procedure, applies to the fees charged or costs assessed for an expunction order entered on or after the effective date of this Act, regardless of whether the underlying arrest occurred before, on, or after the effective date of this Act.

(c)  For a person who is entitled to expunction under Article 55.01(a)(2)(A)(ii)(a), (b), or (c), Code of Criminal Procedure, based on a successful completion of a program described by Subsection (a) of this section before the effective date of this Act, notwithstanding the 30-day time limit provided for the court to enter an automatic order of expunction under Section 1b, Article 55.02, Code of Criminal Procedure, as added by this Act, the court shall enter the required order of expunction for the person as soon as practicable after the court receives written notice from any party to the case about the person's entitlement to the expunction.

SECTION 6.  This Act takes effect September 1, 2023.