

By: Herrero

H.B. No. 3260

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:

(a) The trial court presiding over a case in which a person is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the person was convicted, if the trial court is a district court, a statutory county court, a justice court, or a municipal court of record, 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)(1)(B)(ii) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the court all of the information required in a petition for expunction under Section 2(b).

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

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

(1) the petitioner was arrested; or

(2) the offense was alleged to have occurred.

(b) A petition filed under Subsection (a), ~~(a-1)~~, or (a-2) must be verified and must include the following or an 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, 2023.