

By: Plesa, Bhojani, Bowers, Herrero

H.B. No. 5007

A BILL TO BE ENTITLED

1 AN ACT

2 relating to automatic expunction of arrest records and files for
3 certain persons who are tried for an offense and subsequently
4 acquitted.

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

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

8 Sec. 1. The [~~At the request of the acquitted person and~~
9 ~~after notice to the state, or at the request of the attorney for the~~
10 ~~state with the consent of the acquitted person, the~~] trial court
11 presiding over the case in which the person was acquitted, if the
12 trial court is a district court, a justice court, or a municipal
13 court of record, or a district court in the county in which the
14 trial court is located shall enter an order of expunction for a
15 person entitled to expunction under Article 55.01(a)(1)(A) not
16 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

1 prepare the order for the court's signature. If the trial court is
2 not a district court, a justice court, or a municipal court of
3 record, the trial court shall forward the proposed order, and all
4 information required in a petition for expunction under Section
5 2(b), to a district court in the county to proceed in the manner
6 provided by this section.

7 SECTION 2. (a) This Act applies to the expunction of arrest
8 records and files for a person entitled to that expunction under
9 Article 55.01(a)(1)(A), Code of Criminal Procedure, before, on, or
10 after the effective date of this Act, regardless of when the
11 underlying arrest occurred.

12 (b) For a person who is entitled to expunction under Article
13 55.01(a)(1)(A), Code of Criminal Procedure, based on an acquittal
14 that occurred before the effective date of this Act,
15 notwithstanding the 30-day time limit provided for the court to
16 enter an automatic order of expunction under Section 1, Article
17 55.02, Code of Criminal Procedure, as amended by this Act, the court
18 shall enter an order of expunction for the person as soon as
19 practicable after the court receives written notice from any party
20 to the case about the person's entitlement to the expunction.

21 SECTION 3. This Act takes effect September 1, 2023.