

By: Johnson

S.B. No. 686

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the procedures for the expunction of arrest records and
3 files for persons who complete certain court programs or pretrial
4 intervention programs.

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

6 SECTION 1. Sections 1a(a-1) and (a-2), Article 55.02, Code
7 of Criminal Procedure, are redesignated as Section 1b, Article
8 55.02, Code of Criminal Procedure, and amended to read as follows:

9 Sec. 1b. (a) [~~(a-1)~~] A trial court dismissing a case
10 following a person's successful completion of a veterans treatment
11 court program created under Chapter 124, Government Code, or former
12 law, if the trial court is a district court, or a district court in
13 the county in which the trial court is located shall [~~may, with the~~
14 ~~consent of the attorney representing the state,~~] enter an order of
15 expunction for a person entitled to expunction under Article
16 55.01(a)(2)(A)(ii)(a) not later than the 30th day after the date
17 the court dismisses the case or receives the information regarding
18 that dismissal, as applicable. [~~Notwithstanding any other law, a~~
19 ~~court that enters an order for expunction under this subsection may~~
20 ~~not charge any fee or assess any cost for the expunction.~~]

21 (b) [~~(a-2)~~] A trial court dismissing a case following a
22 person's successful completion of a mental health court program
23 created under Chapter 125, Government Code, or former law, if the
24 trial court is a district court, or a district court in the county

1 in which the trial court is located shall [~~may, with the consent of~~
2 ~~the attorney representing the state,~~] enter an order of expunction
3 for a person entitled to expunction under Article
4 55.01(a)(2)(A)(ii)(b) not later than the 30th day after the date
5 the court dismisses the case or receives the information regarding
6 that dismissal, as applicable. [~~Notwithstanding any other law, a~~
7 ~~court that enters an order for expunction under this subsection may~~
8 ~~not charge any fee or assess any cost for the expunction.~~]

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

12 (c) This subsection applies only to a pretrial intervention
13 program authorized under Section 76.011, Government Code, other
14 than a program described by Subsection (a) or (b) of this section.
15 A trial court dismissing a case following a person's successful
16 completion of a program to which this subsection applies, if the
17 trial court dismissing the case is a district court, or a district
18 court in the county in which the trial court is located shall enter
19 an order of expunction for a person entitled to expunction under
20 Article 55.01(a)(2)(A)(ii)(c) not later than the 30th day after the
21 date the court dismisses the case or receives the information
22 regarding that dismissal, as applicable.

23 (d) The person for whom a court is required to enter an order
24 of expunction under Subsection (a), (b), or (c), as applicable,
25 shall provide to the attorney representing the state all of the
26 information required in a petition for expunction under Section
27 2(b). The attorney representing the state shall prepare an

1 expunction order under this section for the court's signature.

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

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

7 (h) Notwithstanding any other provision of this section, a
8 community supervision and corrections department established under
9 Chapter 76, Government Code, or an office of an attorney
10 representing the state, in possession of records and files subject
11 to an expunction order based on an entitlement under Article
12 55.01(a)(2)(A)(ii)(a), (b), or (c) may retain and use those records
13 and files only for the purpose of developing and operating pretrial
14 intervention programs in a judicial district served by the
15 department or office.

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

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

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

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

26 (3) under Article 55.01(a)(2)(A)(ii)(c) after
27 successful completion of a pretrial intervention program

1 authorized under Section 76.011, Government Code.

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

8 (1) a veterans treatment court program under Chapter
9 124, Government Code, or former law;

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

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

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

19 (c) For a person who is entitled to expunction under Article
20 55.01(a)(2)(A)(ii)(a), (b), or (c), Code of Criminal Procedure,
21 based on a successful completion of a program described by
22 Subsection (a) of this section before the effective date of this
23 Act, notwithstanding the 30-day time limit provided for the court
24 to enter an automatic order of expunction under Section 1b, Article
25 55.02, Code of Criminal Procedure, as added by this Act, the court
26 shall enter the required order of expunction for the person as soon
27 as practicable after the court receives written notice from any

S.B. No. 686

1 party to the case about the person's entitlement to the expunction.

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