

BILL ANALYSIS

C.S.H.B. 463
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there is growing concern in Texas over the lasting consequences of drug-related arrests and prosecutions, especially in cases where laboratory testing ultimately shows that no controlled substance was present. Individuals in these situations often face lasting criminal records, even when charges are dismissed or no conviction occurs, creating unnecessary barriers to employment, housing, and education. C.S.H.B. 463 seeks to ensure that individuals are not burdened by criminal records for drug charges that ultimately prove actual innocence by clarifying pathways to expunction, including through filing an ex parte petition, by allowing the presence of a controlled substance to be challenged in a pretrial hearing, by enabling courts to dismiss charges when appropriate, by setting firm deadlines for courts to issue expunction orders, and by prohibiting the assessment of fees in qualifying cases. These changes aim to establish a fair, efficient process for clearing these records at every stage of the justice system.

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

Pretrial Hearing on the Presence of a Controlled Substance

C.S.H.B. 463 amends the Code of Criminal Procedure to expand the matters for which a court may set any criminal case for a pre-trial hearing to include determining whether a suspected controlled substance contains a controlled substance. The bill does the following with respect to a defendant who is charged with the commission of an offense under the Texas Controlled Substances Act involving the manufacture, delivery, or possession of a controlled substance:

- requires the court, on the written motion of a defendant requesting a determination that a suspected controlled substance that is the subject of the charged offense contains a controlled substance, to do the following at a pretrial hearing set by the court:
 - determine whether the suspected controlled substance that is the subject of the charged offense contains a controlled substance; and
 - issue written findings of fact and conclusions of law supporting the determination;
- establishes that, at such a pretrial hearing, the state's attorney has the burden of providing a laboratory analysis showing that the suspected controlled substance that is the subject of the charged offense contains a controlled substance; and

- requires the court to dismiss the criminal charge with prejudice under the following conditions:
 - the laboratory analysis of the suspected controlled substance that is the subject of the offense finds no presence of a controlled substance; or
 - the state's attorney fails to provide a laboratory analysis of the suspected controlled substance that is the subject of the offense.

These provisions apply only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

Expunction for Certain Controlled Substance Offenses

C.S.H.B. 463 entitles a person who has been placed under a custodial or noncustodial arrest for commission of a felony or misdemeanor to the expunction of all records and files related to the arrest, including, as applicable, any records and files related to a conviction of the offense, under the following conditions:

- the person is currently charged with, convicted of, or placed on deferred adjudication community supervision under applicable state law for an offense under the Texas Controlled Substances Act involving the manufacture, delivery, or possession of a controlled substance;
- a laboratory analysis of the suspected controlled substance that is the subject of the offense finds no presence of a controlled substance; and
- for a person who was convicted of or placed on deferred adjudication community supervision for an offense, as applicable:
 - the person's sentence, including any term of confinement or period of community supervision imposed and payment of all fines and costs imposed, is finally discharged; or
 - the person received a dismissal and discharge under applicable state law for the offense.

For a person entitled to such an expunction, the bill applies to an expunction of arrest records and files relating to an offense that was committed before, on, or after the bill's effective date.

C.S.H.B. 463 authorizes a person who is entitled to such an expunction of records and files to file an ex parte petition for expunction as follows:

- if the person is currently charged with the offense, in the district court for the county in which the person was arrested or the offense was alleged to have occurred; or
- if the person was convicted of the offense or placed on deferred adjudication community supervision for the offense, in the court that convicted the person or placed the person on deferred adjudication community supervision.

In addition to the information required under statutory provisions relating to the contents of a petition, an ex parte petition filed under these provisions must contain a laboratory report or other evidence demonstrating that no controlled substance was present in the suspected controlled substance that was the subject of the offense.

Expunction for an Indictment or Information that was Dismissed or Quashed

C.S.H.B. 463 entitles a person to an expunction of all records and files relating to an arrest for an offense under the Texas Controlled Substances Act involving the manufacture, delivery, or possession of a controlled substance if the following conditions are met:

- the indictment or information charging the person with any applicable misdemeanor or felony offense was dismissed or quashed; and
- the court finds that the indictment or information was dismissed or quashed because a laboratory analysis of the suspected controlled substance that is the subject of the offense finds no presence of a controlled substance.

The bill requires a trial court that is a district court or a district court in the county in which the trial court is located to enter an expunction order for such a person not later than the 30th day after the date the court, as applicable, dismisses the case following a laboratory analysis of a suspected controlled substance that finds no presence of a controlled substance or receives the information regarding the dismissal. The bill prohibits a court that enters such an expunction order from charging any fee or assessing any cost for the expunction.

C.S.H.B. 463 expands the applicability of statutory provisions that do the following to include such an expunction order:

- require the applicable state's attorney to prepare an expunction for the court's signature and notify the Texas Department of Criminal Justice (TDCJ) if the person who is the subject of the order is in the custody of TDCJ;
- establish the required content of an expunction order; and
- provide an exception for the requirement to obliterate identifying portions of the applicable record or file.

C.S.H.B. 463 establishes the following with respect to a person entitled to such an expunction:

- the bill applies only to the expunction of arrest records and files related to a charge for an offense that was dismissed on or after the bill's effective date or an arrest made on or after the bill's effective date; and
- expunction for a dismissal or arrest that occurred before the bill's effective date is governed by the law in effect on the date of the dismissal or arrest, and the former law is continued in effect for that purpose.

For a person who is entitled to an applicable expunction before the bill's effective date, notwithstanding the 30-day time limit provided for the court to enter an order of expunction under the bill's provisions, the court must enter an 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.

Fee Waivers for a Petitioner Entitled to an Expunction

C.S.H.B. 463 requires the following fees to be waived for a petitioner entitled to an expunction under the bill's provisions relating to certain controlled substance offenses:

- the fee charged for filing an ex parte petition in a civil action in district court;
- \$1 plus postage for each certified mailing of notice of the hearing date; and
- \$2 plus postage for each certified mailing of certified copies of an order of expunction.

Furthermore, the bill requires such fees or, as applicable, the \$100 fee for filing an ex parte petition for expunction to defray the cost of notifying state agencies of orders of expunction to be waived for a petitioner entitled to an expunction under the bill's provisions relating to certain controlled substance offenses. These provisions apply to the fees charged or costs assessed for an expunction order entered on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 463 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions absent from the introduced that do the following:

- expand the matters for which a court may set any criminal case for a pre-trial hearing to include determining whether a suspected controlled substance contains a controlled substance;

- provide for a pretrial hearing to determine the presence of a controlled substance for an applicable defendant by doing the following:
 - requiring the court, on the written motion of an applicable defendant requesting a determination that a suspected controlled substance that is the subject of the charged offense contains a controlled substance, to take certain actions at a pretrial hearing set by a court in a criminal case;
 - establishing that, at such a hearing, the state's attorney has the burden of providing a laboratory analysis showing that the suspected controlled substance that is the subject of the charged offense contains a controlled substance; and
 - requiring the court to dismiss the criminal charge with prejudice under certain conditions;
- entitle a person who has been placed under a custodial or noncustodial arrest for commission of a felony or misdemeanor to the expunction of all records and files related to the arrest, including, as applicable, any records and files related to a conviction of the offense, under the following conditions:
 - the person is currently charged with, convicted of, or placed on deferred adjudication community supervision under applicable state law for certain offenses under the Texas Controlled Substances Act;
 - a laboratory analysis of the suspected controlled substance that is the subject of the offense finds no presence of a controlled substance; and
 - for a person who was convicted of or placed on deferred adjudication community supervision for an offense, as applicable:
 - the person's sentence, including any term of confinement or period of community supervision imposed and payment of all fines and costs imposed, is finally discharged; or
 - the person received a dismissal and discharge under applicable state law for the offense;
- authorize a person who is entitled to an expunction of records and files under the bill's provisions relating to certain controlled substance offenses to file an ex parte petition for expunction as follows:
 - if the person is currently charged with the offense, in the district court for the county in which the person was arrested or the offense was alleged to have occurred; or
 - if the person was convicted of the offense or placed on deferred adjudication community supervision for the offense, in the court that convicted the person or placed the person on deferred adjudication community supervision;
- require such an ex parte petition to contain, in addition to the information required under statutory provisions relating to the contents of a petition, a laboratory report or other evidence demonstrating that no controlled substance was present in the suspected controlled substance that was the subject of the offense;
- require certain fees to be waived for a petitioner entitled to an expunction under the bill's provisions relating to certain controlled substance offenses; and
- provide for the applicability of the substitute's provisions relating to pretrial records and to an expunction for certain controlled substances offenses with respect to the bill's effective date.

While both the introduced and substitute entitle a person to an expunction of all records and files relating to an arrest for an offense under the Texas Controlled Substances Act involving the manufacture, delivery, or possession of a controlled substance if, among other conditions, a laboratory analysis of the suspected controlled substance finds no presence of a controlled substance, the substitute includes a specification absent from the introduced that the suspected controlled substance for which the analysis finds no such presence is the controlled substance that is the subject of the offense.