

AN ACT

1
2 relating to allowing a person who successfully completes a term of
3 deferred adjudication community supervision to be eligible for a
4 pardon.

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

6 SECTION 1. Article 48.01, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 48.01. GOVERNOR MAY PARDON. In all criminal cases,
9 except treason and impeachment, the Governor shall have power,
10 after conviction or successful completion of a term of deferred
11 adjudication community supervision, on the written signed
12 recommendation and advice of the Board of Pardons and Paroles, or a
13 majority thereof, to grant reprieves and commutations of
14 punishments and pardons; and upon the written recommendation and
15 advice of a majority of the Board of Pardons and Paroles, he shall
16 have the power to remit fines and forfeitures. The Governor shall
17 have the power to grant one reprieve in any capital case for a
18 period not to exceed 30 days; and he shall have power to revoke
19 conditional pardons. With the advice and consent of the
20 Legislature, the Governor may grant reprieves, commutations of
21 punishment and pardons in cases of treason.

22 SECTION 2. (a) Subsection (a), Article 55.01, Code of
23 Criminal Procedure, is amended to read as follows:

24 (a) A person who has been placed under a custodial or

1 noncustodial arrest for commission of either a felony or
2 misdemeanor is entitled to have all records and files relating to
3 the arrest expunged if:

4 (1) the person is tried for the offense for which the
5 person was arrested and is:

6 (A) acquitted by the trial court, except as
7 provided by Subsection (c) of this section; or

8 (B) convicted and subsequently pardoned; ~~or~~

9 (2) each of the following conditions exist:

10 (A) an indictment or information charging the
11 person with commission of a felony has not been presented against
12 the person for an offense arising out of the transaction for which
13 the person was arrested or, if an indictment or information
14 charging the person with commission of a felony was presented, the
15 indictment or information has been dismissed or quashed, and:

16 (i) the limitations period expired before
17 the date on which a petition for expunction was filed under Article
18 55.02; or

19 (ii) the court finds that the indictment or
20 information was dismissed or quashed because the presentment had
21 been made because of mistake, false information, or other similar
22 reason indicating absence of probable cause at the time of the
23 dismissal to believe the person committed the offense or because it
24 was void;

25 (B) the person has been released and the charge,
26 if any, has not resulted in a final conviction and is no longer
27 pending and there was no court ordered community supervision under

1 Article 42.12 for any offense other than a Class C misdemeanor; and

2 (C) the person has not been convicted of a felony
3 in the five years preceding the date of the arrest; or

4 (3) the person is placed on deferred adjudication
5 community supervision under Section 5, Article 42.12, for the
6 offense for which the person was arrested, if the judge
7 subsequently discharges the person and dismisses the proceedings
8 and the person is subsequently pardoned for the offense.

9 (b) The change in law made by this section in amending
10 Subsection (a), Article 55.01, Code of Criminal Procedure, applies
11 to a defendant seeking expunction of records and files relating to
12 an arrest regardless of whether the arrest occurred before, on, or
13 after the effective date of this Act.

14 SECTION 3. This Act takes effect September 1, 2009, but only
15 if the constitutional amendment proposed by the 81st Legislature,
16 Regular Session, 2009, authorizing the governor to grant a pardon
17 to a person who successfully completes a term of deferred
18 adjudication community supervision is approved by the voters. If
19 that amendment is not approved by the voters, this Act has no
20 effect.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 223 passed the Senate on April 2, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 223 passed the House, with amendments, on May 19, 2009, by the following vote: Yeas 143, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor