

By: Madden

H.B. No. 2889

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the expunction of records and files relating to a
3 person's arrest.

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

5 SECTION 1. Article 55.01(a), Code of Criminal Procedure, is
6 amended to read as follows:

7 (a) A person who has been placed under a custodial or
8 noncustodial arrest for commission of either a felony or
9 misdemeanor is entitled to have all records and files relating to
10 the arrest expunged if:

11 (1) the person is tried for the offense for which the
12 person was arrested and is:

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

15 (B) convicted and subsequently pardoned; or

16 (2) each of the following conditions exist:

17 (A) an indictment or information charging the
18 person with commission of a felony has not been presented against
19 the person for an offense arising out of the transaction for which
20 the person was arrested or, if an indictment or information
21 charging the person with commission of a felony was presented, the
22 indictment or information has been dismissed or quashed, and:

23 (i) the limitations period expired before
24 the date on which a petition for expunction was filed under Article

1 55.02; [~~or~~]

2 (ii) the court finds that the indictment or
3 information was dismissed or quashed because the person completed a
4 pretrial intervention program authorized under Section 76.011,
5 Government Code, or because the presentment had been made because
6 of mistake, false information, or other similar reason indicating
7 absence of probable cause at the time of the dismissal to believe
8 the person committed the offense or because it was void; or

9 (iii) an office of the attorney
10 representing the state authorized by law to prosecute the offense
11 for which the person was arrested declines to prosecute the offense
12 and, after receiving notice of a request or petition for expunction
13 of all records and files relating to the arrest, does not object to
14 the court entering an order of expunction under Article 55.02;

15 (B) the person has been released and the charge,
16 if any, has not resulted in a final conviction and is no longer
17 pending and there was no court ordered community supervision under
18 Article 42.12 for any offense other than a Class C misdemeanor; and

19 (C) the person has not been convicted of a felony
20 in the five years preceding the date of the arrest.

21 SECTION 2. This Act applies to an expunction of arrest
22 records and files for any criminal offense that occurred before,
23 on, or after the effective date of this Act.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.