

1-1 By: Madden (Senate Sponsor - Hinojosa) H.B. No. 2889  
1-2 (In the Senate - Received from the House May 11, 2011;  
1-3 May 11, 2011, read first time and referred to Committee on Criminal  
1-4 Justice; May 19, 2011, reported favorably by the following vote:  
1-5 Yeas 5, Nays 2; May 19, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the expunction of records and files relating to a  
1-9 person's arrest.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 55.01(a), Code of Criminal Procedure, is  
1-12 amended to read as follows:

1-13 (a) A person who has been placed under a custodial or  
1-14 noncustodial arrest for commission of either a felony or  
1-15 misdemeanor is entitled to have all records and files relating to  
1-16 the arrest expunged if:

1-17 (1) the person is tried for the offense for which the  
1-18 person was arrested and is:

1-19 (A) acquitted by the trial court, except as  
1-20 provided by Subsection (c) of this section; or

1-21 (B) convicted and subsequently pardoned; or

1-22 (2) each of the following conditions exist:

1-23 (A) an indictment or information charging the  
1-24 person with commission of a felony has not been presented against  
1-25 the person for an offense arising out of the transaction for which  
1-26 the person was arrested or, if an indictment or information  
1-27 charging the person with commission of a felony was presented, the  
1-28 indictment or information has been dismissed or quashed, and:

1-29 (i) the limitations period expired before  
1-30 the date on which a petition for expunction was filed under Article  
1-31 55.02; [~~or~~]

1-32 (ii) the court finds that the indictment or  
1-33 information was dismissed or quashed because the person completed a  
1-34 pretrial intervention program authorized under Section 76.011,  
1-35 Government Code, or because the presentment had been made because  
1-36 of mistake, false information, or other similar reason indicating  
1-37 absence of probable cause at the time of the dismissal to believe  
1-38 the person committed the offense or because it was void; or

1-39 (iii) an office of the attorney  
1-40 representing the state authorized by law to prosecute the offense  
1-41 for which the person was arrested declines to prosecute the offense  
1-42 and, after receiving notice of a request or petition for expunction  
1-43 of all records and files relating to the arrest, does not object to  
1-44 the court entering an order of expunction under Article 55.02;

1-45 (B) the person has been released and the charge,  
1-46 if any, has not resulted in a final conviction and is no longer  
1-47 pending and there was no court ordered community supervision under  
1-48 Article 42.12 for any offense other than a Class C misdemeanor; and

1-49 (C) the person has not been convicted of a felony  
1-50 in the five years preceding the date of the arrest.

1-51 SECTION 2. This Act applies to an expunction of arrest  
1-52 records and files for any criminal offense that occurred before,  
1-53 on, or after the effective date of this Act.

1-54 SECTION 3. This Act takes effect immediately if it receives  
1-55 a vote of two-thirds of all the members elected to each house, as  
1-56 provided by Section 39, Article III, Texas Constitution. If this  
1-57 Act does not receive the vote necessary for immediate effect, this  
1-58 Act takes effect September 1, 2011.

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