

1-1 By: Collier, Minjarez (Senate Sponsor - Burton) H.B. No. 557
1-2 (In the Senate - Received from the House May 8, 2017;
1-3 May 18, 2017, read first time and referred to Committee on
1-4 Administration; May 23, 2017, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 23, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 557 By: West

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the expunction of arrest records and files for certain
1-20 persons and to the return of certain fees to a person whose criminal
1-21 record has been expunged or who is the subject of an order of
1-22 nondisclosure of criminal history record information; authorizing
1-23 a fee.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Article 55.01, Code of Criminal Procedure, is
1-26 amended by amending Subsection (b) and adding Subsection (b-1) to
1-27 read as follows:

1-28 (b) Except as provided by Subsection (c) and subject to
1-29 Subsection (b-1), a district court, a justice court, or a municipal
1-30 court of record may expunge all records and files relating to the
1-31 arrest of a person [~~who has been arrested for commission of a felony~~
1-32 ~~or misdemeanor~~] under the procedure established under Article 55.02
1-33 if:

1-34 (1) the person is:

1-35 (A) tried for the offense for which the person
1-36 was arrested;

1-37 (B) convicted of the offense; and

1-38 (C) acquitted by the court of criminal appeals
1-39 or, if the period for granting a petition for discretionary review
1-40 has expired, by a court of appeals; or

1-41 (2) an office of the attorney representing the state
1-42 authorized by law to prosecute the offense for which the person was
1-43 arrested recommends the expunction to the [~~appropriate district~~]
1-44 court before the person is tried for the offense, regardless of
1-45 whether an indictment or information has been presented against the
1-46 person in relation to the offense.

1-47 (b-1) A justice court or a municipal court of record may
1-48 only expunge records and files under Subsection (b) that relate to
1-49 the arrest of a person for an offense punishable by fine only.

1-50 SECTION 2. Section 1, Article 55.02, Code of Criminal
1-51 Procedure, is amended to read as follows:

1-52 Sec. 1. At the request of the acquitted person [~~defendant~~]
1-53 and after notice to the state, or at the request of the attorney for
1-54 the state with the consent of the acquitted person, the trial court
1-55 presiding over the case in which the person [~~defendant~~]
1-56 acquitted, if the trial court is a district court, a justice court,
1-57 or a municipal court of record, or a district court in the county in
1-58 which the trial court is located shall enter an order of expunction
1-59 for a person entitled to expunction under Article 55.01(a)(1)(A)
1-60 not later than the 30th day after the date of the acquittal. On

2-1 ~~Upon~~ acquittal, the trial court shall advise the acquitted person
 2-2 [defendant] of the right to expunction. The party requesting the
 2-3 order of expunction [defendant] shall provide to the ~~[district]~~
 2-4 court all of the information required in a petition for expunction
 2-5 under Section 2(b). The attorney for the acquitted person
 2-6 [defendant] in the case in which the person [defendant] was
 2-7 acquitted, if the person [defendant] was represented by counsel, or
 2-8 the attorney for the state, if the person [defendant] was not
 2-9 represented by counsel or if the attorney for the state requested
 2-10 the order of expunction, shall prepare the order for the court's
 2-11 signature.

2-12 SECTION 3. Section 1a(a), Article 55.02, Code of Criminal
 2-13 Procedure, is amended to read as follows:

2-14 (a) The trial court presiding over a case in which a person
 2-15 [defendant] is convicted and subsequently granted relief or
 2-16 pardoned on the basis of actual innocence of the offense of which
 2-17 the person [defendant] was convicted, if the trial court is a
 2-18 district court, a justice court, or a municipal court of record, or
 2-19 a district court in the county in which the trial court is located
 2-20 shall enter an order of expunction for a person entitled to
 2-21 expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th
 2-22 day after the date the court receives notice of the pardon or other
 2-23 grant of relief. The person shall provide to the ~~[district]~~ court
 2-24 all of the information required in a petition for expunction under
 2-25 Section 2(b).

2-26 SECTION 4. Section 2, Article 55.02, Code of Criminal
 2-27 Procedure, is amended by amending Subsections (a) and (b) and
 2-28 adding Subsection (a-1) to read as follows:

2-29 (a) A person who is entitled to expunction of records and
 2-30 files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), or
 2-31 55.01(a)(2) or a person who is eligible for expunction of records
 2-32 and files under Article 55.01(b) may file an ex parte petition for
 2-33 expunction in a district court for the county in which:

- 2-34 (1) the petitioner was arrested; or
- 2-35 (2) the offense was alleged to have occurred.

2-36 (a-1) If the arrest for which expunction is sought is for an
 2-37 offense punishable by fine only, a person who is entitled to
 2-38 expunction of records and files under Article 55.01(a) or a person
 2-39 who is eligible for expunction of records and files under Article
 2-40 55.01(b) may file an ex parte petition for expunction in a justice
 2-41 court or a municipal court of record in the county in which:

- 2-42 (1) the petitioner was arrested; or
- 2-43 (2) the offense was alleged to have occurred.

2-44 (b) A [The] petition filed under Subsection (a) or (a-1)
 2-45 must be verified and must include the following or an explanation
 2-46 for why one or more of the following is not included:

- 2-47 (1) the petitioner's:
 - 2-48 (A) full name;
 - 2-49 (B) sex;
 - 2-50 (C) race;
 - 2-51 (D) date of birth;
 - 2-52 (E) driver's license number;
 - 2-53 (F) social security number; and
 - 2-54 (G) address at the time of the arrest;
- 2-55 (2) the offense charged against the petitioner;
- 2-56 (3) the date the offense charged against the
 2-57 petitioner was alleged to have been committed;
- 2-58 (4) the date the petitioner was arrested;
- 2-59 (5) the name of the county where the petitioner was
 2-60 arrested and if the arrest occurred in a municipality, the name of
 2-61 the municipality;
- 2-62 (6) the name of the agency that arrested the
 2-63 petitioner;
- 2-64 (7) the case number and court of offense; and
- 2-65 (8) together with the applicable physical or e-mail
 2-66 addresses, a list of all:
 - 2-67 (A) law enforcement agencies, jails or other
 2-68 detention facilities, magistrates, courts, prosecuting attorneys,
 2-69 correctional facilities, central state depositories of criminal

3-1 records, and other officials or agencies or other entities of this
3-2 state or of any political subdivision of this state;

3-3 (B) central federal depositories of criminal
3-4 records that the petitioner has reason to believe have records or
3-5 files that are subject to expunction; and

3-6 (C) private entities that compile and
3-7 disseminate for compensation criminal history record information
3-8 that the petitioner has reason to believe have information related
3-9 to records or files that are subject to expunction.

3-10 SECTION 5. Article 102.006, Code of Criminal Procedure, is
3-11 amended to read as follows:

3-12 Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In
3-13 addition to any other fees required by other law and except as
3-14 provided by Subsection (b), a petitioner seeking expunction of a
3-15 criminal record in a district court shall pay the following fees:

3-16 (1) the fee charged for filing an ex parte petition in
3-17 a civil action in district court;

3-18 (2) \$1 plus postage for each certified mailing of
3-19 notice of the hearing date; and

3-20 (3) \$2 plus postage for each certified mailing of
3-21 certified copies of an order of expunction.

3-22 (a-1) In addition to any other fees required by other law
3-23 and except as provided by Subsection (b), a petitioner seeking
3-24 expunction of a criminal record in a justice court or a municipal
3-25 court of record under Chapter 55 shall pay a fee of \$100 for filing
3-26 an ex parte petition for expunction to defray the cost of notifying
3-27 state agencies of orders of expunction under that chapter.

3-28 (b) The fees under Subsection (a) or the fee under
3-29 Subsection (a-1), as applicable, shall be waived if:

3-30 (1) the petitioner seeks expunction of a criminal
3-31 record that relates to an arrest for an offense of which the person
3-32 was acquitted, other than an acquittal for an offense described by
3-33 Article 55.01(c); and

3-34 (2) the petition for expunction is filed not later
3-35 than the 30th day after the date of the acquittal.

3-36 (c) A court that grants a petition for expunction of a
3-37 criminal record may order that any fee, or portion of a fee,
3-38 required to be paid under this article or other law in relation to
3-39 the petition be returned to the petitioner.

3-40 SECTION 6. Section 27.031, Government Code, is amended by
3-41 adding Subsection (e) to read as follows:

3-42 (e) A justice court has concurrent jurisdiction with a
3-43 district court and a municipal court of record over expunction
3-44 proceedings relating to the arrest of a person for an offense
3-45 punishable by fine only.

3-46 SECTION 7. Section 30.00005, Government Code, is amended by
3-47 adding Subsection (e) to read as follows:

3-48 (e) The court has concurrent jurisdiction with a district
3-49 court and a justice court over expunction proceedings relating to
3-50 the arrest of a person for an offense punishable by fine only.

3-51 SECTION 8. Subchapter B, Chapter 103, Government Code, is
3-52 amended by adding Section 103.02101 to read as follows:

3-53 Sec. 103.02101. ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES:
3-54 CODE OF CRIMINAL PROCEDURE. A petitioner filing an ex parte
3-55 petition for expunction in a justice court or a municipal court of
3-56 record shall pay a fee under Article 102.006, Code of Criminal
3-57 Procedure, of \$100 to defray the costs of notifying state agencies
3-58 of orders of expunction.

3-59 SECTION 9. Subchapter E-1, Chapter 411, Government Code, is
3-60 amended by adding Section 411.0746 to read as follows:

3-61 Sec. 411.0746. RETURN OF FEES. A court that issues an order
3-62 of nondisclosure of criminal history record information under this
3-63 subchapter may order that any fee, or portion of a fee, required to
3-64 be paid under this subchapter or other law in relation to the order
3-65 be returned to the person who is the subject of that order.

3-66 SECTION 10. Section 202.001(b), Local Government Code, is
3-67 amended to read as follows:

3-68 (b) The following records may be destroyed without meeting
3-69 the conditions of Subsection (a):

4-1 (1) records the destruction or obliteration of which
4-2 is directed by an expunction order issued by a [~~district~~] court
4-3 pursuant to state law; and

4-4 (2) records defined as exempt from scheduling or
4-5 filing requirements by rules adopted by the commission or listed as
4-6 exempt in a records retention schedule issued by the commission.

4-7 SECTION 11. (a) Except as otherwise provided by this
4-8 section, this Act applies to an expunction of records and files
4-9 relating to any criminal offense that occurred before, on, or after
4-10 the effective date of this Act.

4-11 (b) Section 1, Article 55.02, Code of Criminal Procedure, as
4-12 amended by this Act, applies only to the expunction of arrest
4-13 records and files related to a criminal offense for which the trial
4-14 of the offense begins on or after the effective date of this Act.
4-15 The expunction of arrest records and files under Section 1, Article
4-16 55.02, Code of Criminal Procedure, related to a criminal offense
4-17 for which the trial of the offense begins before the effective date
4-18 of this Act is governed by the law in effect on the date the trial
4-19 begins, and the former law is continued in effect for that purpose.

4-20 (c) Article 102.006(c), Code of Criminal Procedure, as
4-21 added by this Act, applies only to a petition for expunction filed
4-22 on or after the effective date of this Act. A petition for
4-23 expunction filed before the effective date of this Act is governed
4-24 by the law in effect on the date the petition was filed, and the
4-25 former law is continued in effect for that purpose.

4-26 SECTION 12. Section 411.0746, Government Code, as added by
4-27 this Act, applies only to an order of nondisclosure of criminal
4-28 history record information issued on or after the effective date of
4-29 this Act. The issuance of an order of nondisclosure of criminal
4-30 history record information before the effective date of this Act is
4-31 governed by the law in effect on the date the order was issued, and
4-32 the former law is continued in effect for that purpose.

4-33 SECTION 13. This Act takes effect September 1, 2017.

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