

1-1 By: White (Senate Sponsor - Menéndez) H.B. No. 3147  
 1-2 (In the Senate - Received from the House May 10, 2017;  
 1-3 May 12, 2017, read first time and referred to Committee on Criminal  
 1-4 Justice; May 21, 2017, reported favorably by the following vote:  
 1-5 Yeas 7, Nays 0; May 21, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman			X	
1-9 Birdwell			X	
1-10 Burton	X			
1-11 Creighton	X			
1-12 Garcia	X			
1-13 Hughes	X			
1-14 Menéndez	X			
1-15 Perry	X			

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

1-19 relating to the entitlement to expunction for certain persons who  
 1-20 are arrested solely as a result of inaccurate identifying  
 1-21 information.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Article 55.01(d), Code of Criminal Procedure, is  
 1-24 amended to read as follows:

1-25 (d) A person is entitled to obtain the expunction of ~~have~~  
 1-26 any information that identifies the person, including the person's  
 1-27 name, address, date of birth, driver's license number, and social  
 1-28 security number, contained in records and files relating to the  
 1-29 person's arrest or the arrest of another person ~~[expunged]~~ if:

1-30 (1) the expunction of identifying information is  
 1-31 sought with respect to the arrest of the person asserting the  
 1-32 entitlement and the person was arrested solely as a result of  
 1-33 identifying information that was inaccurate due to a clerical  
 1-34 error; or

1-35 (2) the expunction of identifying information is  
 1-36 sought with respect to the arrest of a person other than the person  
 1-37 asserting the entitlement and:

1-38 (A) the information identifying the person  
 1-39 asserting the entitlement ~~[to expunction]~~ was falsely given by the  
 1-40 arrested person ~~[arrested]~~ as the arrested person's identifying  
 1-41 information without the consent of the person asserting the  
 1-42 entitlement; and

1-43 (B) ~~[(2)]~~ the only reason why ~~[for]~~ the  
 1-44 identifying information of ~~[identifying]~~ the person asserting the  
 1-45 entitlement is ~~[being]~~ contained in the applicable arrest records  
 1-46 and files ~~[of the person arrested]~~ is because of the deception of  
 1-47 [that the information was falsely given by] the arrested person  
 1-48 [arrested as the arrested person's identifying information].

1-49 SECTION 2. Section 2a(b), Article 55.02, Code of Criminal  
 1-50 Procedure, is amended to read as follows:

1-51 (b) The application must be verified, include authenticated  
 1-52 fingerprint records of the applicant, and include the following or  
 1-53 an explanation for why one or more of the following is not included:

1-54 (1) the applicant's full name, sex, race, date of  
 1-55 birth, driver's license number, social security number, and address  
 1-56 at the time of the applicable arrest ~~[the person who falsely~~  
 1-57 ~~identified himself or herself as the applicant was arrested];~~

1-58 (2) the following information regarding the arrest:

1-59 (A) the date of arrest;

1-60 (B) the offense charged against the person  
 1-61 arrested;

2-1 (C) the name of the county or municipality in  
2-2 which the arrest occurred; and

2-3 (D) the name of the arresting agency; and

2-4 (3) a statement, as appropriate, that the applicant:

2-5 (A) was arrested solely as a result of  
2-6 identifying information that was inaccurate due to a clerical  
2-7 error; or

2-8 (B) [~~the applicant~~] is not the person arrested  
2-9 and for whom the arrest records and files were created[+] and

2-10 [~~(B) the applicant~~] did not give the arrested  
2-11 person [~~arrested~~] consent to falsely identify himself or herself as  
2-12 the applicant.

2-13 SECTION 3. This Act applies to the expunction of arrest  
2-14 records and files for a person whose entitlement to expunction  
2-15 under Article 55.01(d), Code of Criminal Procedure, as amended by  
2-16 this Act, arises before, on, or after the effective date of this  
2-17 Act, regardless of when the underlying arrest occurred.

2-18 SECTION 4. This Act takes effect September 1, 2017.

2-19 \* \* \* \* \*