

- SUBJECT:** Establishing automatic criminal record expunction for certain veterans
- COMMITTEE:** Defense and Veterans' Affairs — favorable, without amendment
- VOTE:** 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson  
0 nays
- WITNESSES:** For — Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Lashondra Jones, Catholic Charities; Ellen Arnold, Goodwill Central Texas, Texas Association of Goodwills; Andrea Keilen and Shea Place, Texas Criminal Defense Lawyers Association)  
Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 55.01 entitles a person who has been arrested for the commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged in certain instances. Some circumstances that may result in expunction of arrest records include an acquittal following a trial, a pardon following a conviction, or an indictment that was dismissed or quashed for various reasons.  
  
Government Code, ch. 124 establishes the veterans treatment court program, a specialty court program through which pending criminal cases involving veterans or members of the armed forces may proceed under some circumstances. If a veterans treatment court determines that a dismissal is in the best interest of justice after the defendant has completed the program, the original court in which the case is pending is required to dismiss the case.
- DIGEST:** HB 322 would establish a process for the automatic expunction of arrest records for defendants who had completed a veterans treatment court program under certain conditions. If upon a defendant's successful completion of a program the veterans treatment court determined that a dismissal was in the best interest of justice, it would have to provide the trial court information about the dismissal, including all information

required for a petition for expunction. If the trial court was a district court, it would have to enter an order of expunction within 30 days after a case was dismissed. Otherwise, the trial court would be required to forward the appropriate dismissal and expunction information to a district court in the same county. A court would be required to waive any fee or cost associated with the expunction.

The bill would take effect September 1, 2017, and would apply to a person who successfully completed a veterans treatment court program before, on, or after that date. The section relating to fees charged or costs assessed for an expunction order would apply only to an order entered on or after September 1.

**SUPPORTERS  
SAY:**

HB 322 would entitle veterans who successfully completed a veterans treatment court program to have their arrest records automatically expunged for no cost, which would help veterans lead a productive life by allowing them to return to the workforce and housing market without a record.

Many veterans face challenges when returning to civilian life that often are exacerbated by a mental illness or disorder resulting from their military service. These conditions can lead to substance abuse issues and involvement in the criminal justice system, which can result in a criminal record that limits the veteran's job and housing opportunities. Veterans treatment courts offer a treatment-based program that involves intensive psychological and drug and alcohol counseling aimed at rehabilitation and reducing recidivism. Participation is subject to the consent of the prosecuting attorney, and most participants are veterans or current military personnel who suffer from a brain injury or mental illness or disorder or were victims of sexual trauma related to military service that affected the defendant's criminal conduct at issue in the case. Establishing a process for automatic expunction would further the mission of these programs by creating an incentive for eligible veterans to improve mental health recovery and enable successful re-entry into the community.

A veteran already entitled under current law to have his or her records

expunged by completing a veterans treatment court program may delay or avoid petitioning for expunction due to high costs. The procedure for expunction requires filing a petition, often with the assistance of an attorney, and paying court and processing fees. These costs can be onerous when added to those already associated with the treatment court, including drug testing, counseling, and probation fees. HB 322 would relieve this cost burden for veterans who had completed treatment court programs and would expedite the process for those already eligible. Courts already process automatic expunctions in certain cases. In these situations, fees are waived regardless of a defendant's ability to pay. This bill merely would extend this existing practice to all veterans who complete the veterans treatment court program.

**OPPONENTS  
SAY:**

HB 322 would require an unnecessary automatic fee waiver. Defendants seeking record expunction already have the ability to petition for a fee waiver due to financial hardship, and a judge has the discretion to waive the fees upon a determination of indigence or at the request of an attorney.