

BILL ANALYSIS

Senate Research Center
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S.B. 840
By: West
Criminal Justice
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As Filed

DIGEST

Currently, a person who has been arrested for the commission of a felony or misdemeanor is entitled to have all records expunged provided certain conditions and procedures are fulfilled. S.B. 840 would establish the automatic expunction of certain arrest records.

PURPOSE

As proposed, S.B. 840 establishes the automatic expunction of certain arrest records.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 55.01(a), Code of Criminal Procedure, to establish that a person is entitled to have all records and files expunged relating to an arrest resulting from the commission of a felony or misdemeanor, if an indictment or information charging the person with the commission of the felony has not been presented before the expiration of the statute of limitations of the offense. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Article 55.02, Code of Criminal Procedure, as follows:

Art. 55.02. PROCEDURE FOR EXPUNCTION. Sec. 1. Requires the trial court to enter an order of expunction for a person entitled to expunction not later than the 30th day after the date of the acquittal. Requires the trial court, in which a person entitled to expunction was convicted, to enter an order of expunction for the person not later than the 30th day after the date the person is pardoned. Requires the district attorney who would have prosecuted a person entitled to expunction to bring a motion not later than the 30th day after the date the statute of limitations in the prosecution expires. Requires the trial court, upon the filing of the motion, to enter an order of expunction not later than the 30th day after the date of filing the motion. Makes conforming changes.

Sec. 2. Makes conforming changes.

Sec. 3. Requires the trial court to require in an order of expunction issued under this article any state agency that sent certain information concerning the arrest. Authorizes the person who is the subject of the expunction order, rather than any petitioner, or an agency protesting the expunction, to appeal the court's decision in the same manner as in other civil cases.

Sec. 4. Makes conforming changes.

SECTION 3. Amends Article 55.03, Code of Criminal Procedure, to make conforming changes.

SECTION 4. Amends Article 55.06, Code of Criminal Procedure, to prohibit records relating to the suspension or revocation of a driver's license, permit, or privilege to operate a motor vehicle from being expunged under this chapter, except as provided in Sections 524.015 and 724.048, Transportation Code, rather than certain other Articles. Deletes text regarding the prohibition to expunge certain records.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.
Effective date: upon passage.