

BILL ANALYSIS

Senate Research Center
81R1462 GCB-D

H.B. 2002
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently it was discovered that Tim Cole was wrongly convicted and imprisoned for rape. After suffering from medical problems, he died in prison after serving 13 years. DNA evidence proved his innocence in 2008, and his family is now seeking the right to expunge his records to clear the family name of that wrongful conviction.

The purpose of H.B. 2002 is to allow immediate family members or close relatives of the deceased person to reinstate that person's good name.

H.B. 2002 authorizes a close relative of deceased person who, if not deceased would be entitled under state law to expunction of records and files relating to an arrest, to file an ex parte petition for the expunction of the deceased person's records. The bill requires a court that finds that the deceased person would be entitled to expunction of any record that is the subject of the petition, to enter an order directing expunction.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 55, Code of Criminal Procedure, by adding Article 55.011, as follows:

Art. 55.011. RIGHT OF CLOSE RELATIVE TO SEEK EXPUNCTION ON BEHALF OF DECEASED PERSON. (a) Defines "close relative of a deceased person."

(b) Authorizes a close relative of a deceased person who, if not deceased, would be entitled to expunction of records and files under Article 55.01 (Right to Expunction), to file on behalf of the deceased person an ex parte petition for expunction under Section 2 (relating to authorizing a person who is entitled to expunction of information contained in certain records and files to file an ex parte petition for expunction) or 2a (relating to authorizing a person who is entitled to expunction of information contained in certain records and files to file an ex parte petition for expunction with the attorney representing the state), Article 55.02 (Procedure for Expunction). Requires the court, if the court finds that the deceased person would be entitled to expunction of any record or file that is the subject of the petition, to enter an order directing expunction.

SECTION 2. Effective date: upon passage or September 1, 2009.