

## **BILL ANALYSIS**

Senate Research Center  
77R3533 KEL-D

S.B. 1047  
By: Shapiro  
Criminal Justice  
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### **DIGEST AND PURPOSE**

Currently, if a person's identifying information is stolen and the perpetrator of that theft is then arrested using the victim's name or social security number, the victim's records would reflect an arrest made under the use of that stolen information regardless of the fact that the perpetrator illegally presented himself or herself. As proposed, S.B. 1047 provides that if a person's identifying information is used in the arrest of another person, the victim of that identification theft, under certain conditions, is entitled to an expunction of the record of that arrest.

### **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 Article 55.01, Code of Criminal Procedure, by adding Subsection (d), to provide that a person is entitled to have any information that identifies the person, including certain specific information, contained in records and files relating to the arrest of another person expunged if certain conditions exist.

SECTION 2. Amends Section 2, Article 55.02, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

- (a) Authorizes a person who is entitled to expunction of records and files under certain articles, including Article 55.01(d), or a person who is eligible for expunction of records and files under Article 55.01(b) to file an ex parte petition for expunction in certain district courts.
- (b) Requires the petition to be verified and to include certain specific information or an explanation for why one or more of those certain pieces of information is not included.
- (e) Requires the verified petition, in addition to the information required by Subsection (b), if the petitioner relies on an entitlement to expunction under Article 55.01(d), to include certain specific information or a statement explaining the reason that information is not included.

SECTION 3. Amends Section 5, Article 55.02, Code of Criminal Procedure, to require, except as provided by Subsection (f), on receipt of the order, each official or agency or other entity named in the order to take certain enumerated actions. Authorizes a court, except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d), to give the person who is the subject of the order all records and files returned to it pursuant to its order. Adds an exception in the case of a person who is the subject of an expunction order based on an entitlement under Article 55.01(d) to the provision regarding the court records concerning expunction proceedings not being open. Requires each official, agency, or other entity named in the order, on receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), to take certain enumerated actions. Prohibits each official, agency, or other

entity named in the order, on receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), from returning the record or file or deleting index references to the record or file.

SECTION 4. Amends Section 411.0421(c), Government Code, to require the Texas Department of Public Safety (department) to ensure that the record of the individual's identity, including the unique password, is available online to any entity, rather than criminal justice agency, authorized to receive information from the department under Subchapter F.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2001.