

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/27/17

Date

Honorable Dan Patrick  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 557 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Kommi Burton

Rep. [Signature]

Burch Gilt

José Rodriguez

JH [Signature]  
On the part of the Senate

Nicole Collier

Collier, Nicole Chair

James White

White, James

[Signature]

MINJAREZ, INA

Mary Gonzalez

Mary Gonzalez

Senjonia Thompson  
On the part of the House

### Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 557

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the expunction of arrest records and files for certain  
3 persons and to the return of certain fees to a person whose criminal  
4 record has been expunged; authorizing a fee.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 55.01, Code of Criminal Procedure, is  
7 amended by amending Subsection (b) and adding Subsection (b-1) to  
8 read as follows:

9 (b) Except as provided by Subsection (c) and subject to  
10 Subsection (b-1), a district court, a justice court, or a municipal  
11 court of record may expunge all records and files relating to the  
12 arrest of a person [~~who has been arrested for commission of a felony~~  
13 ~~or misdemeanor~~] under the procedure established under Article 55.02  
14 if:

15 (1) the person is:

16 (A) tried for the offense for which the person  
17 was arrested;

18 (B) convicted of the offense; and

19 (C) acquitted by the court of criminal appeals  
20 or, if the period for granting a petition for discretionary review  
21 has expired, by a court of appeals; or

22 (2) an office of the attorney representing the state  
23 authorized by law to prosecute the offense for which the person was  
24 arrested recommends the expunction to the [~~appropriate district~~]

1 court before the person is tried for the offense, regardless of  
2 whether an indictment or information has been presented against the  
3 person in relation to the offense.

4 (b-1) A justice court or a municipal court of record may  
5 only expunge records and files under Subsection (b) that relate to  
6 the arrest of a person for an offense punishable by fine only.

7 SECTION 2. Section 1, Article 55.02, Code of Criminal  
8 Procedure, is amended to read as follows:

9 Sec. 1. At the request of the acquitted person [~~defendant~~]  
10 and after notice to the state, or at the request of the attorney for  
11 the state with the consent of the acquitted person, the trial court  
12 presiding over the case in which the person [~~defendant~~] was  
13 acquitted, if the trial court is a district court, a justice court,  
14 or a municipal court of record, or a district court in the county in  
15 which the trial court is located shall enter an order of expunction  
16 for a person entitled to expunction under Article 55.01(a)(1)(A)  
17 not later than the 30th day after the date of the acquittal. On  
18 Upon acquittal, the trial court shall advise the acquitted person  
19 [~~defendant~~] of the right to expunction. The party requesting the  
20 order of expunction [~~defendant~~] shall provide to the [~~district~~]  
21 court all of the information required in a petition for expunction  
22 under Section 2(b). The attorney for the acquitted person  
23 [~~defendant~~] in the case in which the person [~~defendant~~] was  
24 acquitted, if the person [~~defendant~~] was represented by counsel, or  
25 the attorney for the state, if the person [~~defendant~~] was not  
26 represented by counsel or if the attorney for the state requested  
27 the order of expunction, shall prepare the order for the court's

1 signature.

2 SECTION 3. Section 1a(a), Article 55.02, Code of Criminal  
3 Procedure, is amended to read as follows:

4 (a) The trial court presiding over a case in which a person  
5 [~~defendant~~] is convicted and subsequently granted relief or  
6 pardoned on the basis of actual innocence of the offense of which  
7 the person [~~defendant~~] was convicted, if the trial court is a  
8 district court, a justice court, or a municipal court of record, or  
9 a district court in the county in which the trial court is located  
10 shall enter an order of expunction for a person entitled to  
11 expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th  
12 day after the date the court receives notice of the pardon or other  
13 grant of relief. The person shall provide to the [~~district~~] court  
14 all of the information required in a petition for expunction under  
15 Section 2(b).

16 SECTION 4. Section 2, Article 55.02, Code of Criminal  
17 Procedure, is amended by amending Subsections (a) and (b) and  
18 adding Subsection (a-1) to read as follows:

19 (a) A person who is entitled to expunction of records and  
20 files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), or  
21 55.01(a)(2) or a person who is eligible for expunction of records  
22 and files under Article 55.01(b) may file an ex parte petition for  
23 expunction in a district court for the county in which:

- 24 (1) the petitioner was arrested; or  
25 (2) the offense was alleged to have occurred.

26 (a-1) If the arrest for which expunction is sought is for an  
27 offense punishable by fine only, a person who is entitled to

1 expunction of records and files under Article 55.01(a) or a person  
2 who is eligible for expunction of records and files under Article  
3 55.01(b) may file an ex parte petition for expunction in a justice  
4 court or a municipal court of record in the county in which:

5 (1) the petitioner was arrested; or

6 (2) the offense was alleged to have occurred.

7 (b) A [The] petition filed under Subsection (a) or (a-1)  
8 must be verified and must include the following or an explanation  
9 for why one or more of the following is not included:

10 (1) the petitioner's:

11 (A) full name;

12 (B) sex;

13 (C) race;

14 (D) date of birth;

15 (E) driver's license number;

16 (F) social security number; and

17 (G) address at the time of the arrest;

18 (2) the offense charged against the petitioner;

19 (3) the date the offense charged against the  
20 petitioner was alleged to have been committed;

21 (4) the date the petitioner was arrested;

22 (5) the name of the county where the petitioner was  
23 arrested and if the arrest occurred in a municipality, the name of  
24 the municipality;

25 (6) the name of the agency that arrested the  
26 petitioner;

27 (7) the case number and court of offense; and

1           (8) together with the applicable physical or e-mail  
2 addresses, a list of all:

3                   (A) law enforcement agencies, jails or other  
4 detention facilities, magistrates, courts, prosecuting attorneys,  
5 correctional facilities, central state depositories of criminal  
6 records, and other officials or agencies or other entities of this  
7 state or of any political subdivision of this state;

8                   (B) central federal depositories of criminal  
9 records that the petitioner has reason to believe have records or  
10 files that are subject to expunction; and

11                   (C) private entities that compile and  
12 disseminate for compensation criminal history record information  
13 that the petitioner has reason to believe have information related  
14 to records or files that are subject to expunction.

15           SECTION 5. Article 102.006, Code of Criminal Procedure, is  
16 amended to read as follows:

17           Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In  
18 addition to any other fees required by other law and except as  
19 provided by Subsection (b), a petitioner seeking expunction of a  
20 criminal record in a district court shall pay the following fees:

21                   (1) the fee charged for filing an ex parte petition in  
22 a civil action in district court;

23                   (2) \$1 plus postage for each certified mailing of  
24 notice of the hearing date; and

25                   (3) \$2 plus postage for each certified mailing of  
26 certified copies of an order of expunction.

27           (a-1) In addition to any other fees required by other law

1 and except as provided by Subsection (b), a petitioner seeking  
2 expunction of a criminal record in a justice court or a municipal  
3 court of record under Chapter 55 shall pay a fee of \$100 for filing  
4 an ex parte petition for expunction to defray the cost of notifying  
5 state agencies of orders of expunction under that chapter.

6 (b) The fees under Subsection (a) or the fee under  
7 Subsection (a-1), as applicable, shall be waived if:

8 (1) the petitioner seeks expunction of a criminal  
9 record that relates to an arrest for an offense of which the person  
10 was acquitted, other than an acquittal for an offense described by  
11 Article 55.01(c); and

12 (2) the petition for expunction is filed not later  
13 than the 30th day after the date of the acquittal.

14 (c) A court that grants a petition for expunction of a  
15 criminal record may order that any fee, or portion of a fee,  
16 required to be paid under Subsection (a) be returned to the  
17 petitioner.

18 SECTION 6. Section 27.031, Government Code, is amended by  
19 adding Subsection (e) to read as follows:

20 (e) A justice court has concurrent jurisdiction with a  
21 district court and a municipal court of record over expunction  
22 proceedings relating to the arrest of a person for an offense  
23 punishable by fine only.

24 SECTION 7. Section 30.00005, Government Code, is amended by  
25 adding Subsection (e) to read as follows:

26 (e) The court has concurrent jurisdiction with a district  
27 court and a justice court over expunction proceedings relating to



1 the arrest of a person for an offense punishable by fine only.

2 SECTION 8. Subchapter B, Chapter 103, Government Code, is  
3 amended by adding Section 103.02101 to read as follows:

4 Sec. 103.02101. ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES:  
5 CODE OF CRIMINAL PROCEDURE. A petitioner filing an ex parte  
6 petition for expunction in a justice court or a municipal court of  
7 record shall pay a fee under Article 102.006, Code of Criminal  
8 Procedure, of \$100 to defray the costs of notifying state agencies  
9 of orders of expunction.

10 SECTION 9. Section 202.001(b), Local Government Code, is  
11 amended to read as follows:

12 (b) The following records may be destroyed without meeting  
13 the conditions of Subsection (a):

14 (1) records the destruction or obliteration of which  
15 is directed by an expunction order issued by a [~~district~~] court  
16 pursuant to state law; and

17 (2) records defined as exempt from scheduling or  
18 filing requirements by rules adopted by the commission or listed as  
19 exempt in a records retention schedule issued by the commission.

20 SECTION 10. (a) Except as otherwise provided by this  
21 section, this Act applies to an expunction of records and files  
22 relating to any criminal offense that occurred before, on, or after  
23 the effective date of this Act.

24 (b) Section 1, Article 55.02, Code of Criminal Procedure, as  
25 amended by this Act, applies only to the expunction of arrest  
26 records and files related to a criminal offense for which the trial  
27 of the offense begins on or after the effective date of this Act.

1 The expunction of arrest records and files under Section 1, Article  
2 55.02, Code of Criminal Procedure, related to a criminal offense  
3 for which the trial of the offense begins before the effective date  
4 of this Act is governed by the law in effect on the date the trial  
5 begins, and the former law is continued in effect for that purpose.

6 (c) Article 102.006(c), Code of Criminal Procedure, as  
7 added by this Act, applies only to a petition for expunction filed  
8 on or after the effective date of this Act. A petition for  
9 expunction filed before the effective date of this Act is governed  
10 by the law in effect on the date the petition was filed, and the  
11 former law is continued in effect for that purpose.

12 SECTION 11. This Act takes effect September 1, 2017.

**House Bill 557**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 1. Article 55.01, Code of Criminal Procedure, is amended.	SECTION 1. Same as House version.	SECTION 1. Same as House version.
SECTION 2. Section 1, Article 55.02, Code of Criminal Procedure, is amended	SECTION 2. Same as House version.	SECTION 2. Same as House version.
SECTION 3. Section 1a(a), Article 55.02, Code of Criminal Procedure, is amended.	SECTION 3. Same as House version.	SECTION 3. Same as House version.
SECTION 4. Section 2, Article 55.02, Code of Criminal Procedure, is amended.	SECTION 4. Same as House version.	SECTION 4. Same as House version.
SECTION 5. Article 102.006, Code of Criminal Procedure, is amended.	SECTION 5. Same as House version except also adds Subsection (c) to read as follows: <u>(c) A court that grants a petition for expunction of a criminal record may order that any fee, or portion of a fee, required to be paid under <i>this article or other law in relation to the petition</i> be returned to the petitioner.</u>	SECTION 5. Same as Senate version except as follows: <u>(c) A court that grants a petition for expunction of a criminal record may order that any fee, or portion of a fee, required to be paid under <i>Subsection (a)</i> be returned to the petitioner.</u>
SECTION 6. Section 27.031, Government Code, is amended.	SECTION 6. Same as House version.	SECTION 6. Same as House version.
SECTION 7. Section 30.00005, Government Code, is amended.	SECTION 7. Same as House version.	SECTION 7. Same as House version.
SECTION 8. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.02101, ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES: CODE OF CRIMINAL PROCEDURE.	SECTION 8. Same as House version.	SECTION 8. Same as House version.
<i>No equivalent provision.</i>	SECTION 9. Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0746 to read as	Same as House version.

**House Bill 557**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

follows:

Sec. 411.0746. RETURN OF FEES. A court that issues an order of nondisclosure of criminal history record information under this subchapter may order that any fee, or portion of a fee, required to be paid under this subchapter or other law in relation to the order be returned to the person who is the subject of that order.

SECTION 9. Section 202.001(b), Local Government Code, is amended.

SECTION 10. (a) Except as provided by *Subsection (b) of* this section, this Act applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the effective date of this Act.

(b) Section 1, Article 55.02, Code of Criminal Procedure, as amended by this Act, applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files under Section 1, Article 55.02, Code of Criminal Procedure, related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

SECTION 10. Same as House version.

SECTION 11. (a) Except as *otherwise* provided by this section, this Act applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the effective date of this Act.

(b) Section 1, Article 55.02, Code of Criminal Procedure, as amended by this Act, applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files under Section 1, Article 55.02, Code of Criminal Procedure, related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

*(c) Article 102.006(c), Code of Criminal Procedure, as added by this Act, applies only to a petition for expunction filed on or after the effective date of this Act. A petition for expunction filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.*

SECTION 9. Same as House version.

SECTION 10. Same as Senate version.

**House Bill 557**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SECTION 12. Saving provision for added Section 411.0746,  
Government Code.

Same as House version.

SECTION 11. This Act takes effect September 1, 2017.

SECTION 13. Same as House version.

SECTION 11. Same as House version.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 27, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB557** by Collier (Relating to the expunction of arrest records and files for certain persons and to the return of certain fees to a person whose criminal record has been expunged; authorizing a fee.), **Conference Committee Report**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Code of Criminal Procedure to authorize an acquitted individual, or an attorney for the state acting with the consent of the acquitted individual, to request an expunction order. The bill would define under what conditions either the attorney for the acquitted individual, or the attorney for the state, shall prepare the order of expunction for the court's signature. It is assumed any costs associated with implementing the provisions of the bill could be absorbed within current resources.

The bill would amend the Code of Criminal Procedure allowing a justice court or a municipal court of record to expunge records and files related to the arrest of a person for an offense punishable by fine only. The bill would require a person seeking an expunction to pay a fee of \$100 for filing an ex parte petition to defray the costs of notifying state agencies of order of expunction.

According to the Office of Court Administration, no significant fiscal impact to the state court system is anticipated.

The bill would take effect September 1, 2017.

**Local Government Impact**

According to Williamson County, no significant fiscal impact is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405  
Department of Public Safety

**LBB Staff:** UP, KK, KJo, AI, JAW, JGA, WP