

## **BILL ANALYSIS**

H.B. 3579  
By: Alonzo  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

According to interested parties, the law relating to the expunction of criminal records historically has been convoluted and confusing, using the terms "arrest," "charge," and "offense" seemingly interchangeably. The parties explain that this inconsistency has led to disagreement among Texas courts as to whether the proper unit of expunction is the dismissed charge or the entire arrest. For example, when a person is arrested for two offenses, it is unclear whether the charges for both offenses must be dismissed in order for the person to have the records for either offense expunged.

The parties note that a majority of Texas courts have adopted a charge-based approach, meaning that individual charges arising out of an arrest may be expunged even if others are ineligible for expunction, as long as the offense sought to be expunged meets the requirements of the statute. However, a recent court decision interpreted the law to mean that the unit of expunction is the arrest, so that unless every charge arising out of an arrest is eligible for expunction, none of the charges are eligible. The parties contend that such an approach has never been in the spirit of the expunction law, which should be construed liberally in favor of the unjustly accused, and would also have a chilling effect on plea bargaining. The parties have expressed concern that because of the prevalence of background checks for many types of employment, housing, professional licensure, and a number of other reasons, the effect of a dismissal that is not eligible for expunction is similar to the effect of a conviction. H.B. 3579 seeks to clarify the law on this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3579 amends the Code of Criminal Procedure to change the records and files that a person who has been placed under a custodial or noncustodial arrest is entitled to have expunged if certain conditions are met from records and files relating to the arrest to records and files relating to the offense for which the person was arrested. The bill reduces the amount of time that must have elapsed from the date of an arrest for a misdemeanor offense after which a person who has been released and meets other applicable criteria becomes entitled to expunction from 180 days to 30 days, for a Class C misdemeanor, and from one year to 90 days, for a Class B or Class A misdemeanor. The bill expands the information that a person is entitled to have expunged in another person's records and files if certain conditions are met to include information identifying the person in records and files relating to any ensuing criminal proceeding based on the other

person's arrest. The bill applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the bill's effective date.

**EFFECTIVE DATE**

September 1, 2015.