

- SUBJECT:** Right of close relative to seek expunction on behalf of a deceased person
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Gallego, Fletcher, Hodge, Kent, Miklos, Moody, Pierson, Vaught, Vo
- 0 nays
- 2 absent — Christian, Riddle
- WITNESSES:** For — (*Registered, but did not testify:* Kristen Etter, Texas Criminal Defense Lawyers Association; Scott Henson, Innocence Project of Texas; Ballard C. Shapleigh, 34th Judicial District Attorney Jaime Esparza; Matt Simpson, American Civil Liberties Union of Texas)
- Against — (*Registered, but did not testify:* Ken Whalen, Texas Daily Newspaper Association, Texas Press Association)
- BACKGROUND:** Code of Criminal Procedure (CCP), art. 55.01 allows expunction of arrest records for felony or misdemeanor offenses if a person is tried for an offense and acquitted or is pardoned after being convicted. The statute also provides for expunction under other conditions, such as if an indictment is dismissed or quashed. Under Code of Criminal Procedure, art. 55.02 a person entitled to expunction may file an ex parte petition in a district court.
- DIGEST:** HB 2002 would amend Code of Criminal Procedure, ch. 55, adding sec. 55.011 to allow a close relative of a deceased person to file an ex parte petition for expunction on behalf of the deceased relative if the deceased person would have been entitled to expunction under sec. 55.01 if not deceased. If the court found that the deceased person would have been entitled to expunction, the court would be required to enter an order directing expunction.
- “Close relative of a deceased person” would be defined as the grandparent, parent, spouse, or adult brother, sister, or child of a deceased person.

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HB 2002 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

By allowing a close relative to file for expunction on behalf of a deceased person, HB 2002 would allow a family to clear the good name of a loved one and of their family. This also would provide the family with an opportunity to see justice done.

**OPPONENTS
SAY:**

HB 2002 would interfere with the public and the media's access to information. Not having access to records due to expunction could impede the newsgathering process. Information that is part of the public record should remain so.