

SUBJECT: Allowing expunction of arrest records by a statutory county court

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Collier, K. Bell, Cason, Cook, Crockett, Murr, Vasut

0 nays

2 absent — Hinojosa, A. Johnson

WITNESSES: For — Emily Gerrick, Clean Slate Texas; (*Registered, but did not testify:* Lauren Johnson, ACLU of Texas; Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Maggie Luna, Texas Criminal Justice Coalition; Cynthia Simons, Texas Women's Justice Coalition)

Against — None

BACKGROUND: Under Code of Criminal Procedure art. 55.01(a), a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if certain conditions are met. Art. 55.01(b) gives district courts, justice courts, and municipal courts of record the authority to expunge all records and files relating to the arrest of a person under certain conditions, including if the person is acquitted or if the state's attorney prosecuting the offense recommends the expunction.

Code of Criminal Procedure art. 55.02 requires certain trial courts presiding over a case in which a person was acquitted, convicted and subsequently granted relief, or pardoned on the basis of actual innocence to enter an order of expunction for the person at the request of the person or of the attorney for the state. In addition, a person who is entitled to or eligible for expunction may file an ex parte petition for expunction in the associated district court or in a justice court or municipal court of record in the county in which the petitioner was arrested or the offense was alleged to have occurred.

Concerns have been raised that individuals who are eligible for an expunction of a criminal record for a case disposed of in a statutory court may not petition for an expunction in the same court under current law.

DIGEST:

HB 3022 would authorize statutory county courts to expunge records and files relating to the arrest of a person for an offense that was subject to the court's jurisdiction if certain conditions were met. Statutory county courts would have concurrent jurisdiction with district courts over such expunction proceedings. The bill also would include statutory county courts in the list of courts required to enter an order of expunction for certain persons.

A person entitled to or eligible for expunction for an arrest related to an offense that was subject to a statutory county court's jurisdiction could file an ex parte petition for expunction in a statutory county court in the county in which the petitioner was arrested or in which the offense was alleged to have occurred. A petitioner seeking expunction in a statutory county court would have to pay a fee of \$100 for filing the petition to defray the cost of notifying state agencies of orders of expunction.

The bill would take effect September 1, 2021, and would apply to expunction of arrest records and files for any criminal offense that occurred before, on, or after that date.