

## BILL ANALYSIS

Senate Research Center  
76R10215 GWK-D

C.S.S.B. 840  
By: West  
Criminal Justice  
4/9/1999  
Committee Report (Substituted)

### DIGEST

Currently, a person who has been arrested for the commission of a felony or misdemeanor is entitled to have all records expunged provided certain conditions and procedures are fulfilled. C.S.S.B. 840 would establish the automatic expunction of certain arrest records.

### PURPOSE

As proposed, C.S.S.B. 840 establishes the automatic expunction of certain arrest records.

### RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 55.01(a), Code of Criminal Procedure, to establish that a person is entitled to have all records and files expunged relating to an arrest resulting from the commission of a felony or misdemeanor, if an indictment or information charging the person with the commission of the felony has not been presented before the expiration of the statute of limitations of the offense. Prohibits the court from ordering the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, if the offense for which the person was acquitted arose out of a criminal episode and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Article 55.02, Code of Criminal Procedure, as follows:

Art. 55.02. PROCEDURE FOR EXPUNCTION. Sec. 1. Requires the trial court presiding over a case in which the defendant was acquitted, at the request of the defendant and after notice to the state and a hearing, to enter an order of expunction for a person entitled to expunction not later than the 30th day after the date of the acquittal. Requires the court, upon acquittal, to advise the defendant on the right to expunction. Requires the defendant to provide to the court all of the information required in a petition for expunction.

Sec. 2. Authorizes a person who is entitled to expunction of records and files to file a petition for expunction in a district court for the county in which the person was arrested or in the county where the offense was alleged to have occurred. Makes conforming changes.

Sec. 3. Requires the trial court to require in an order of expunction issued under this article any state agency that sent certain information concerning the arrest. Authorizes the person who is the subject of the expunction order, rather than any petitioner, or an agency protesting the expunction, to appeal the court's decision in the same manner as in other civil cases.

Sec. 4 and 5. Makes conforming changes.

SECTION 3. Amends Article 55.03, Code of Criminal Procedure, to make conforming changes.

SECTION 4. Amends Article 55.06, Code of Criminal Procedure, to prohibit records relating to the suspension or revocation of a driver's license, permit, or privilege to operate a motor vehicle from being expunged under this chapter, except as provided in Sections 524.015 and 724.048, Transportation Code. Deletes text regarding the prohibition to expunge certain records. Makes standard recodification changes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.

Effective date: upon passage.

**SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Article 55.01(a), Code of Criminal Procedure, to prohibit the court from ordering the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, if the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode. Makes conforming changes.

SECTION 2.

Amends Sections 1, 2, and 5, Article 55.02, Code of Criminal Procedure, as follows:

Article 55.02. PROCEDURE FOR EXPUNCTION. Sec.1. Requires the trial court presiding over a case in which the defendant was acquitted, at the request of the defendant and after notice to the state and a hearing, to enter an order of expunction for a person entitled to expunction not later than the 30th day after the date of the acquittal. Requires the court, upon acquittal, to advise the defendant on the right to expunction. Requires the defendant to provide to the court all of the information required in a petition for expunction.

Sec. 2. Authorizes a person who is entitled to expunction of records and files to file a petition for expunction in a district court for the county in which the person was arrested or in the county where the offense was alleged to have occurred.

Sec. 5. Makes conforming changes.