

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1323  
By: Shields (Staples)  
Criminal Justice  
5/3/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Under current Texas law, when a person is arrested for a crime, an indictment or information must be filed charging that person with a crime. If it is determined that no probable cause existed, a trial court can dismiss the case. Under these circumstances a person can request expunction of the arrest record and other related files, but if the indictment or information used to charge the person for the alleged crime is quashed because of non-prosecution or other showing of lack of probable cause, no provisions exist for the application of expunction of the records against a person in such a situation. C.S.H.B. 1323 allows the expunction of criminal records after an indictment or information is quashed.

### **RULEMAKING AUTHORITY**

This bill does not expressly 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 provide that a person who has been arrested for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged under certain specific conditions.

SECTION 2. Amends Section 3(c), Article 55.02, Code of Criminal Procedure, to require the clerk of the court, when the order of expunction is final, to send a certified copy of the order in a certain manner to the Crime Records Services of the Department of Public Safety and in a different certain manner to each official or agency or other entity of this state or any political subdivisions of this state designated by the person who is the subject of the order. Requires the clerk of the court to receive a receipt for each order delivered by hand under this subsection.

SECTION 3. Amends Article 55.03, Code of Criminal Procedure, to provide that certain conditions exist when the order of expunction is final, rather than after entry of an expunction order.

SECTION 4. Provides that the change in law made by this Act applies to arrest records and files created before, on, or after the effective date of this Act.

SECTION 5. Effective date: upon passage or September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

Differs from the original by amending the relating clause.

SECTION 1. No changes.

Deletes previously proposed SECTIONS 2 and 3 and inserts new SECTIONS 2 and 3.

SECTION 4. Differs from the original by amending previously proposed provisions regarding the application of this Act.

Deletes previously proposed SECTION 5 and renumbers previously proposed SECTION 6 as SECTION 5, relating to the effective date of this Act, with no change.