

BILL ANALYSIS

Senate Research Center
78R6285 EMT-D

H.B. 171
By: Keel (Whitmire)
Criminal Justice
5/11/2003
Engrossed

DIGEST AND PURPOSE

Texas law gives district courts exclusive jurisdiction to grant expunction of criminal records. Prior legislation calling for the expunction of criminal records by "the trial court" following an acquittal does not accurately describe the proper procedure following an acquittal in a lower court, such as a county court at law. H.B. 171 amends the language in Article 55.02, Code of Criminal Procedure, to direct the expunction to the trial court if it was a district court, or to a district court in the county of the trial court if the trial court was a lower court.

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 Section 1, Article 55.02, Code of Criminal Procedure, to require, at the request of the defendant and after notice to the state, the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located to enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(A) not later than the 30th day after the date of the acquittal. Requires the trial court, upon acquittal, to advise the defendant of the right to expunction. Requires the defendant to provide to the district court all of the information required in a petition for expunction under Section 2(b). Requires the attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, or the attorney for the state, if the defendant was not represented by counsel, to prepare the order for the court's signature.

SECTION 2. Amends Sections 3(a) and (b), Article 55.02, Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 3. Effective date: September 1, 2003.
Makes application of this Act prospective.