

BILL ANALYSIS

Senate Research Center
81R6167 KEL-D

S.B. 920
By: Harris
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the law is unclear on the matter of having a person's records expunged after a dismissal of charges, or a no-bill by a grand jury. Certain felonies have no statute of limitations and so it would appear that those records can never be expunged. This bill is designed to clarify the expunction statute, allowing a person to have their records expunged if the charges are dismissed, or if a grand jury no-bills the charges. A person who was mistakenly charged with a felony, especially one that carries a particularly negative stigma, should be able to expunge their records. This bill does not apply to acquittals or deferred adjudication.

As proposed, S.B. 920 entitles a person to have all records and files relating to the arrest expunged if an indictment or information charging the person with commission of a felony was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause.

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 Articles 55.01(a) and (a-1), Code of Criminal Procedure, as follows:

(a) Entitles a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person is arrested and is acquitted by the trial court, except as provided by Subsection (c) (relating to the person having been released and the charge, if any, has not resulted in a final conviction), rather than Subsection (c) of this section, or convicted and subsequently pardoned; or

(2) certain conditions exist, including if an indictment or information charging the person with commission of a felony was dismissed or quashed as described by Paragraph (A) (relating to outcome of presentment of an indictment), due to either of certain conditions. Makes nonsubstantive changes.

(a-1) Makes a conforming change.

SECTION 2. Provides that the change in law made by this Act applies to a person seeking expunction of records relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2009.