

BILL ANALYSIS

Senate Research Center
81R22903 KEL-F

C.S.S.B. 920
By: Harris
Criminal Justice
4/9/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a person who has been arrested for the commission of a felony may seek to have the arrest records expunged if the indictment or information charging the person was not presented or was presented but was dismissed or quashed, and either the statute of limitations has run or a court finds that the indictment or information was dismissed or quashed because of mistake, false information, or other reasons indicating absence of probable cause or because it was void. However, some felonies in Texas have no statute of limitations, which may make it difficult for a person who has been arrested for such a felony to expunge the arrest records if the indictment was never presented.

C.S.S.B. 920 makes changes in law relating to the right to an expunction of records and files relating to a person's arrest.

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, 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) each of certain conditions exist, including if an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested and the applicable limitations period expired before the date on which a petition for expunction was filed under Article 55.02 (Procedure for Expunction), or the court finds that there is reasonable cause to believe the state will not proceed against the person for an offense arising out of the transaction for which the person was arrested, or if an indictment or information charging the person with commission of a felony was presented against the person for an offense arising out of the transaction for which the person was arrested, the indictment or information was dismissed or quashed, and the applicable limitations period expired before the date on which a petition for expunction was filed under Article 55.02, or the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void, or the court finds that there is reasonable cause to believe the state will

not proceed against the person for an offense arising out of the transaction for which the person was arrested. Makes conforming and nonsubstantive changes.

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.