

BILL ANALYSIS

Senate Research Center
85R1680 JSC-D

H.B. 3147
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3147 amends current statutes in the Code of Criminal Procedure to entitle a person to obtain the expunction of any information that identifies the person contained in records and files relating to the person's arrest. This would only be applicable if the expunction of identifying information is sought with respect to the arrest of the person asserting the entitlement, and the person was arrested solely as a result of identifying information that was inaccurate due to a clerical error or mistaken identity.

Many people believe if they are released after being mistakenly arrested and the charges were dropped or dismissed without any court date being set that they no longer have an arrest record; even in cases of a mistaken arrest, the damaging documents are not automatically removed. H.B. 3147 expedites the process of having these records expunged, so the innocent citizens who have been wrongfully arrested can move forward with their lives, free from fear of a tarnished record for a crime they did not commit.

H.B. 3147 amends current law relating to the entitlement to expunction for certain persons who are arrested solely as a result of inaccurate identifying information.

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(d), Code of Criminal Procedure, as follows:

(d) Entitles a person to obtain the expunction of any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to the person's arrest or the arrest of another person if:

(1) the expunction of identifying information is sought with respect to the arrest of the person asserting the entitlement and the person was arrested solely as a result of identifying information that was inaccurate due to a clerical error; or

(2) the expunction of identifying information is sought with respect to the arrest of a person other than the person asserting the entitlement and:

(A) the information identifying the person asserting the entitlement was falsely given by the arrested person as the arrested person's identifying information without the consent of the person asserting the entitlement; and

(B) the only reason why the identifying information of the person asserting the entitlement is contained in the applicable arrest records and files is because of the deception of the arrested person.

Deletes existing text entitling a person to have any information that identifies the person, including certain information, contained in records and files relating to the arrest of another person expunged if the information identifying the person asserting the entitlement to expunction was falsely given by the person arrested as the arrested person's identifying information without the consent of the person asserting the entitlement, and the only reason for the information identifying the person asserting the entitlement being contained in the arrest records and files of the person arrested is that the information was falsely given by the person arrested as the arrested person's identifying information.

SECTION 2. Amends Section 2a(b), Article 55.02, Code of Criminal Procedure, as follows:

(b) Requires that the application be verified, include authenticated fingerprint records of the applicant, and include the following or an explanation for why one or more of the following is not included:

- (1) the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time of the applicable arrest, rather than the person who falsely identified himself or herself as the applicant was arrested;
- (2) makes no changes to this subdivision;
- (3) a statement, as appropriate, that the applicant was arrested solely as a result of identifying information that was inaccurate due to a clerical error; or is not the person arrested and for whom the arrest records and files were created and did not give the arrested person consent to falsely identify himself or herself as the applicant. Makes nonsubstantive changes.

SECTION 3. Provides that this Act applies to the expunction of arrest records and files for a person whose entitlement to expunction under Article 55.01(d), Code of Criminal Procedure, as amended by this Act, that arises before, on, or after the effective date of this Act, regardless of when the underlying arrest occurred.

SECTION 4. Effective date: September 1, 2017.