

## **BILL ANALYSIS**

C.S.H.B. 557  
By: Collier  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that certain conditions on the ability of an attorney representing the state to request an order of expunction for an acquitted person should be removed to reduce some of the time and cost burdens placed on the acquitted person in obtaining the expunction. C.S.H.B. 557 seeks to revise the procedure regarding a request for an order of expunction for an acquitted person made by an attorney representing the state.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 557 amends the Code of Criminal Procedure to include the attorney for the state as a person whose request for an order of expunction for an acquitted person entitled to expunction triggers the requirement for the applicable district court to enter an order of expunction by the requisite deadline, provided the attorney for the state makes the request with the consent of the acquitted person, and to specify that the party requesting the order of expunction is the person required to provide to the district court all of the information required in a petition for expunction. The bill requires the attorney for the state to prepare the expunction order for the court's signature if the attorney for the state requested the order of expunction.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 557 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read

85R 24348

17.110.454

Substitute Document Number: 85R 19117

as follows:

Sec. 1. At the request of the acquitted person [defendant] and after notice to the state, or at the request of the attorney for the state, the trial court presiding over the case in which the person [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 shall 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. On [Upon] acquittal, the trial court shall advise the acquitted person [defendant] of the right to expunction.

The acquitted person or the attorney for the state [defendant] shall provide to the district court all of the information required in a petition for expunction under Section 2(b). ~~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,]~~ shall prepare the order for the court's signature.

SECTION 2. The change in law made by this Act applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

as follows:

Sec. 1. At the request of the acquitted person [defendant] and after notice to the state, or at the request of the attorney for the state with the consent of the acquitted person, the trial court presiding over the case in which the person [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 shall 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. On [Upon] acquittal, the trial court shall advise the acquitted person [defendant] of the right to expunction.

The party requesting the order of expunction [defendant] shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

The attorney for the acquitted person [defendant] in the case in which the person [defendant] was acquitted, if the person [defendant] was represented by counsel, or the attorney for the state, if the person [defendant] was not represented by counsel or if the attorney for the state requested the order of expunction, shall prepare the order for the court's signature.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.