

- SUBJECT:** Allowing expunction of individual charges for multiple-charge arrests
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Herrero, Moody, Canales, Leach, Shaheen, Simpson
0 nays
1 absent — Hunter
- WITNESSES:** For — David Gonzalez, Texas Criminal Defense Lawyers Association; Greg Glod, Texas Public Policy Foundation; Paul Quinzi; (*Registered, but did not testify*: Sarah Pahl, Texas Criminal Justice Coalition; Roger Miller)

Against — (*Registered, but did not testify*: William Hon, Polk County Criminal District Attorney; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett, Texas Press Association)
- BACKGROUND:** Code of Criminal Procedure, art. 55.01 provides the requirements for expunction of criminal charges. Under Art. 55.01, a person, under certain circumstances is entitled to have “all records and files relating to [an] arrest expunged.” Historically, courts have had reached different conclusions as to whether an individual charge can be expunged if it meets the requirements of Art. 55.01 or if every offense charged under a single arrest must meet the requirements in order for the entire arrest to be expunged.

A recent appellate court decision held that every offense for which a person was arrested must meet the requirements of Article 55.01 for the arrest to be expunged. For example, under the court’s ruling, if a person was pulled over and arrested for speeding and driving while intoxicated, and was acquitted of the driving while intoxicated (DWI) charge but not the speeding charge, that person could not have the DWI charge expunged because the speeding charge does not meet the requirements of Article 55.01.

DIGEST: HB 3579 would provide for expunction of criminal records for individual offenses rather than expunctions of entire arrests.

The bill would allow expunction of records relating to individual offenses for which a person was arrested if the person was tried for an offense and either acquitted by the trial court or convicted and subsequently pardoned for any reason.

The bill also would shorten the time period for which certain records could be expunged if a person was released and did not receive an indictment or information charging the person with commission of an offense from:

- 180 to 30 days if the offense was punishable as a class C misdemeanor (maximum fine of \$500), and there was no felony charge arising out of the same transaction; and
- one year to 90 days if the offense was punishable as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) or a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), and there was no felony charge arising out of the same transaction.

The bill also would make several technical and conforming changes to the Code of Criminal Procedure.

This bill would take effect September 1, 2015, and would apply to expunctions for arrests that occurred before, on, or after that date.