

BILL ANALYSIS

Senate Research Center

H.B. 2725
By: Talton (West, Royce)
Criminal Justice
5/22/2003
Engrossed

DIGEST AND PURPOSE

Currently, if a person is acquitted of a crime, the trial court presiding over the case is required to enter an order of expunction. Upon receiving this order, the clerk of the court must destroy the files and records on the first anniversary of the date the order for expunction is issued. It is extremely expensive for court clerks to store these records for an entire year. H.B. 2725 provides for the earlier destruction of certain expunction records..

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 Section 5, Article 55.02, Code of Criminal Procedure, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Requires the clerk of the court to destroy all the files or other records maintained under Subsection (c) not earlier than the 60th day after, rather than on first anniversary of, the date the order of expunction is issued or later than the first anniversary of that date unless the records or files were released under Subsection (b), except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d).

(d-1) Requires the clerk, not later than the 30th day before the date on which the clerk destroys files or other records under Subsection (d), to provide notice by mail, electronic mail, or facsimile transmission to the attorney representing the state in the expunction proceeding. Prohibits the clerk from destroying the files or other records until the first anniversary of the date the order of expunction is issued or the first business day after that date, if the attorney representing the state in the expunction proceeding objects to the destruction not later than the 20th day after receiving notice under this subsection.

SECTION 2. Effective date: upon passage or September 1, 2003.