

By: White

H.B. No. 3147

A BILL TO BE ENTITLED

AN ACT

relating to the entitlement to expunction for certain persons who are arrested solely as a result of inaccurate identifying information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 55.01(d), Code of Criminal Procedure, is amended to read as follows:

(d) A person is entitled to obtain the expunction of ~~[have]~~ 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 ~~[expunged]~~ 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 ~~[to expunction]~~ was falsely given by the arrested person ~~[arrested]~~ as the arrested person's identifying information without the consent of the person asserting the

entitlement; and

(B) ~~[(2)]~~ the only reason why ~~[for]~~ the identifying information of ~~[identifying]~~ the person asserting the entitlement is ~~[being]~~ contained in the applicable arrest records and files ~~[of the person arrested]~~ is because of the deception of ~~[that the information was falsely given by]~~ the arrested person ~~[arrested as the arrested person's identifying information]~~.

SECTION 2. Section 2a(b), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(b) The application must 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 ~~[the person who falsely identified himself or herself as the applicant was arrested]~~;

(2) the following information regarding the arrest:

(A) the date of arrest;

(B) the offense charged against the person arrested;

(C) the name of the county or municipality in which the arrest occurred; and

(D) the name of the arresting agency; and

(3) a statement, as appropriate, that the applicant:

(A) was arrested solely as a result of identifying information that was inaccurate due to a clerical error; or

1                    (B) [~~the applicant~~] is not the person arrested  
2 and for whom the arrest records and files were created[+] and

3                    [~~(B) the applicant~~] did not give the arrested  
4 person [~~arrested~~] consent to falsely identify himself or herself as  
5 the applicant.

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

11            SECTION 4. This Act takes effect September 1, 2017.