



1                    (B) the actual identity of the person arrested,  
2 if known by the agency; and

3                    (C) whether the agency was able to notify the  
4 person whose identifying information was misused.

5                    SECTION 2. Subsections (a) and (b), Section 2, Article  
6 55.02, Code of Criminal Procedure, are amended to read as follows:

7                    (a) A person who is entitled to expunction of records and  
8 files under Article 55.01(a)(1)(B) or[~~r~~] 55.01(a)(2)[~~r~~ ~~or~~  
9 ~~55.01(d)~~] or a person who is eligible for expunction of records and  
10 files under Article 55.01(b) may file an ex parte petition for  
11 expunction in a district court for the county in which:

12                    (1) the petitioner was arrested; or

13                    (2) [~~the person who falsely identified himself or~~  
14 ~~herself as the petitioner was arrested, if the petitioner relies on~~  
15 ~~an entitlement under Article 55.01(d), or~~

16                    [~~3~~] the offense was alleged to have occurred.

17                    (b) The petition must be verified and shall include the  
18 following or an explanation for why one or more of the following is  
19 not included:

20                    (1) the petitioner's:

21                    (A) full name;

22                    (B) sex;

23                    (C) race;

24                    (D) date of birth;

25                    (E) driver's license number;

26                    (F) social security number; and

27                    (G) address at the time of the arrest;

1 (2) the offense charged against the petitioner [~~or the~~  
2 ~~person described by Subsection (a)(2)~~];

3 (3) the date the offense charged against the  
4 petitioner [~~or the person described by Subsection (a)(2)~~] was  
5 alleged to have been committed;

6 (4) the date the petitioner [~~or the person described~~  
7 ~~by Subsection (a)(2)~~] was arrested;

8 (5) the name of the county where the petitioner [~~or the~~  
9 ~~person described by Subsection (a)(2)~~] was arrested and if the  
10 arrest occurred in a municipality, the name of the municipality;

11 (6) the name of the agency that arrested the  
12 petitioner [~~or the person described by Subsection (a)(2)~~];

13 (7) the case number and court of offense; and

14 (8) a list of all law enforcement agencies, jails or  
15 other detention facilities, magistrates, courts, prosecuting  
16 attorneys, correctional facilities, central state depositories of  
17 criminal records, and other officials or agencies or other entities  
18 of this state or of any political subdivision of this state and of  
19 all central federal depositories of criminal records that the  
20 petitioner has reason to believe have records or files that are  
21 subject to expunction.

22 SECTION 3. Article 55.02, Code of Criminal Procedure, is  
23 amended by adding Section 2a to read as follows:

24 Sec. 2a. (a) A person who is entitled to expunction of  
25 information contained in records and files under Article 55.01(d)  
26 may file an application for expunction with the attorney  
27 representing the state in the prosecution of felonies in the county

1 in which the person resides.

2 (b) The application must be verified, include authenticated  
3 fingerprint records of the applicant, and include the following or  
4 an explanation for why one or more of the following is not included:

5 (1) the applicant's full name, sex, race, date of  
6 birth, driver's license number, social security number, and address  
7 at the time the person who falsely identified himself or herself as  
8 the applicant was arrested;

9 (2) the following information regarding the arrest:

10 (A) the date of arrest;

11 (B) the offense charged against the person  
12 arrested;

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

15 (D) the name of the arresting agency; and

16 (3) a statement that:

17 (A) the applicant is not the person arrested and  
18 for whom the arrest records and files were created; and

19 (B) the applicant did not give the person  
20 arrested consent to falsely identify himself or herself as the  
21 applicant.

22 (c) After verifying the allegations in an application  
23 received under Subsection (a), the attorney representing the state  
24 shall:

25 (1) include on the application information regarding  
26 the arrest that was requested of the applicant but was unknown by  
27 the applicant;

1           (2) forward a copy of the application to the district  
2 court for the county;

3           (3) attach to the copy a list of all law enforcement  
4 agencies, jails or other detention facilities, magistrates,  
5 courts, prosecuting attorneys, correctional facilities, central  
6 state depositories of criminal records, and other officials or  
7 agencies or other entities of this state or of any political  
8 subdivision of this state and of all central federal depositories  
9 of criminal records that are reasonably likely to have records or  
10 files containing information that is subject to expunction; and

11           (4) request the court to enter an order directing  
12 expunction based on an entitlement to expunction under Article  
13 55.01(d).

14           (d) On receipt of a request under Subsection (c), the court  
15 shall, without holding a hearing on the matter, enter a final order  
16 directing expunction.

17           SECTION 4. Subsection (c), Section 3, Article 55.02, Code  
18 of Criminal Procedure, is amended to read as follows:

19           (c) When the order of expunction is final, the clerk of the  
20 court shall send a certified copy of the order by certified mail,  
21 return receipt requested, to the Crime Records Service of the  
22 Department of Public Safety and by hand delivery or certified mail,  
23 return receipt requested, to each official or agency or other  
24 entity of this state or of any political subdivision of this state  
25 designated by the person who is the subject of the order. The clerk  
26 of the court must receive a receipt for each order delivered by hand  
27 under this subsection. The Department of Public Safety shall

1 notify any central federal depository of criminal records by any  
2 means, including electronic transmission, of the order with an  
3 explanation of the effect of the order and a request that the  
4 depository, as appropriate, either:

5 (1) destroy or return to the court the records in  
6 possession of the depository that are subject to the order,  
7 including any information with respect to the order; or

8 (2) comply with Section 5(f) of this article  
9 pertaining to information contained in records and files of a  
10 person entitled to expunction under Article 55.01(d) [~~be destroyed~~  
11 ~~or returned to the court~~].

12 SECTION 5. Article 60.19, Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 60.19. INFORMATION RELATED TO MISUSED IDENTITY.

15 (a) On receipt of information from a local law enforcement agency  
16 under Article 2.28, the department shall:

17 (1) provide the notice described by Subdivision (1) of  
18 that article to the person whose identity was misused, if the local  
19 law enforcement agency was unable to notify the person under that  
20 subdivision;

21 (2) take action to ensure that the information  
22 maintained in the computerized criminal history system reflects the  
23 use of the person's identity as a stolen alias; and

24 (3) notify the Texas Department of Criminal Justice  
25 that the person's identifying information may have been falsely  
26 used by an inmate in the custody of the department.

27 (b) On receipt of a declaration under Section 411.0421,

1 Government Code, or on receipt of information similar to that  
2 contained in a declaration, the department shall separate  
3 information maintained in the computerized criminal history system  
4 regarding an individual whose identity has been misused from  
5 information maintained in that system regarding the person who  
6 misused the identity.

7 SECTION 6. Chapter 493, Government Code, is amended by  
8 adding Section 493.0155 to read as follows:

9 Sec. 493.0155. PROPER IDENTIFICATION OF INMATES USING  
10 ALIAS. On receipt of information from the Department of Public  
11 Safety under Article 60.19, Code of Criminal Procedure, that a  
12 person's identifying information may have been falsely used by an  
13 inmate as the inmate's identifying information, regardless of  
14 whether the inmate is in the custody of the department, is serving a  
15 period of supervised release, or has been discharged, the  
16 department shall:

17 (1) make a reasonable effort to identify the inmate's  
18 actual identity; and

19 (2) take action to ensure that any information  
20 maintained in the department's records and files regarding the  
21 inmate reflects the inmate's use of the person's identity as a  
22 stolen alias and refers to available information concerning the  
23 inmate's actual identity.

24 SECTION 7. Subsection (e), Section 2, Article 55.02, Code  
25 of Criminal Procedure, is repealed.

26 SECTION 8. This Act takes effect September 1, 2003.

David Newburn

President of the Senate

Jim Cusick

Speaker of the House

I hereby certify that S.B. No. 566 passed the Senate on April 3, 2003, by a viva-voce vote.

Datsy Graw  
Secretary of the Senate

I hereby certify that S.B. No. 566 passed the House on May 25, 2003, by a non-record vote.

Robert Haney  
Chief Clerk of the House

Approved:

18 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 P.M. O'CLOCK

Ann Shea  
Secretary of State