

# PROPOSED AMENDMENT

## HB 1137 # 1

### DIGEST

Discretion. Makes the expungement provisions discretionary rather than mandatory.

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- 1           Page 2, delete lines 19 through 42, begin a new paragraph and  
2 insert:
- 3           "(f) If the court determines that the state has failed to prove by clear  
4 and convincing evidence that the individual is dangerous, the court:
- 5           **(1) shall issue a written order that:**
- 6                 ~~(1)~~ **(A) the individual is not dangerous (as defined in section**  
7                 **1 of this chapter); and**
- 8                 ~~(2)~~ **(B) the law enforcement agency having custody of the**  
9                 **firearm shall return the firearm as quickly as practicable, but**  
10                **not later than five (5) days after the date of the order, to the**  
11                **individual from whom it was seized; and**
- 12           **(2) may issue a written order that one (1) or more of the**  
13           **following records shall be sealed and expunged:**
- 14                **(A) The court's file.**
- 15                **(B) The records of any law enforcement agency or other**  
16                **person involved in the:**
- 17                    **(i) investigation of the individual under this chapter;**  
18                    **(ii) filing of a search warrant return under section 2 of**  
19                    **this chapter; or**
- 20                    **(iii) filing of an affidavit under section 3 of this chapter.**
- 21                **(C) The records contained in any central repository for**  
22                **criminal history or civil litigation information, including**  
23                **the repository maintained by the state police department.**  
24                **This clause does not require the state police department to**  
25                **seal any record the state police department does not have**  
26                **legal authority to seal.**
- 27           **A record sealed under this subdivision may not be disclosed**  
28           **to any individual or be accessible to any person unless**

1 authorized by a court order.

2 (g) If, before July 1, 2025, the court issued an order that an  
3 individual is not dangerous under subsection (f), and the individual  
4 subsequently files a motion to amend that order to include the  
5 expungement provisions of subsection (f)(2), the court may grant  
6 the motion and issue an amended order accordingly."

7 Page 3, delete lines 1 through 7.

8 Page 3, delete lines 32 through 42, begin a new paragraph and  
9 insert:

10 "(f) If, upon the completion of the hearing and consideration of the  
11 record, the court finds that the individual is no longer dangerous, the  
12 court:

13 (1) shall:

14 ~~(1)~~ (A) issue a court order that finds that the individual is no  
15 longer dangerous;

16 ~~(2)~~ (B) order the law enforcement agency having custody of  
17 any firearm to return the firearm as quickly as practicable, but  
18 not later than five (5) days after the date of the order, to the  
19 individual;

20 ~~(3)~~ (C) terminate any injunction issued under section 6 of this  
21 chapter; and

22 ~~(4)~~ (D) terminate the suspension of the individual's license to  
23 carry a handgun so that the individual may reapply for a  
24 license; and

25 (2) may order that one (1) or more of the following records be  
26 sealed and expunged:

27 (A) The court's file.

28 (B) The records of any law enforcement agency or other  
29 person involved in the:

30 (i) investigation of the individual under this chapter;

31 (ii) filing of a search warrant return under section 2 of  
32 this chapter; or

33 (iii) filing of an affidavit under section 3 of this chapter.

34 (C) The records contained in any central repository for  
35 criminal history or civil litigation information, including  
36 the repository maintained by the state police department.

37 This clause does not require the state police department to  
38 seal any record the state police department does not have  
39 legal authority to seal.

40 A record sealed under this subdivision may not be disclosed

1           to any individual or be accessible to any person unless  
2           authorized by a court order.

3           (g) If, before July 1, 2025, the court issued an order that an  
4           individual is no longer dangerous under subsection (f), and the  
5           individual subsequently files a motion to amend that order to  
6           include the expungement provisions of subsection (f)(2), the court  
7           may grant the motion and issue an amended order accordingly.".

8           Page 4, delete lines 1 through 24.

(Reference is to HB 1137 as introduced.)