

BILL ANALYSIS

S.B. 166
By: West, Royce
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, persons who have been acquitted at trial, pardoned, or for whom no case was presented for trial, with exceptions, are entitled to have their records expunged. This differs from persons who may apply for an order of non-disclosure, which in effect “seals” the record of a person who has been placed on deferred adjudication, has successfully completed a period of community supervision, and has had the charge dismissed. During the 78th legislative session, SB 1477 was passed which made orders of non-disclosure possible, but which also made minor changes to the expunction statutes. One of the changes has had the unintended consequence of allowing the Department of Public Safety to maintain records that have been ordered by a court to be expunged and to make the records public to criminal justice and certain noncriminal justice agencies. SB 166 corrects this unintended consequence and also requires DPS to destroy records that were not expunged due to the unintended consequence.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SB 166 amends the Code of Criminal Procedure to clarify that expunged records may not be maintained by the Department of Public Safety and disseminated to criminal justice agencies or to noncriminal justice agencies authorized by state or federal law to receive criminal history record information. The bill also requires DPS to destroy records that were not expunged due to the unintended consequence.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.