

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 25, 2005

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB3093 by Pena (Relating to ex parte petitions for the expunction of criminal records and files.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure as it relates to ex parte petitions for the expunction of criminal records and files. The bill would also amend the Government Code and the Code of Criminal Procedure as it relates to a person's eligibility for an order of nondisclosure with respect to certain criminal history records and to certain law enforcement duties that result from the issuance of an order.

The bill would amend the Code of Criminal Procedure to allow the director of the Department of Public Safety or the director's authorized representative to file an ex parte petition in a district court on behalf of a person entitled to expunction of criminal records and files. The petition filed by the director of the Department of Public Safety or the director's authorized representative must include the person's full name, sex, race, date of birth, driver's license number, social security number, address at the time of the arrest, the offense charge against the person, the date the offense charged against the person was alleged to have been committed, the date the person was arrested, the name of the county or municipality where the person was arrested, the name of the arresting agency, the case number and court of offense, and a list of all parties the person for whom the petition has been filed has reason to believe have records or files that are subject to expunction.

The bill would allow persons placed on deferred adjudication community supervision that subsequently receive a discharge and dismissal to file an ex parte petition with the district court for an order of nondisclosure, regardless of whether the person has been previously convicted or placed on deferred adjudication community supervision for an offense. Under current law, persons with previous convictions and deferred adjudications are not eligible.

The bill also modifies the eligibility and payment dates and requires the Department of Public Safety (DPS) to send a copy of the order by mail or electronic means to all private entities that purchase criminal history record information from DPS, in addition to law enforcement agencies and federal depositories.

DPS would also be required to include in a report submitted to the Legislature, the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense after the order was issued.

A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to certain noncriminal justice agencies or entities only for criminal justice or regulatory licensing purposes. A person whose criminal history has been sealed would not be required to state in any proceeding they had been the subject of any criminal proceeding related to the order issued.

The bill instructs DPS not to release criminal history record information to entities that have purchased the information and violated Government Code, Section 552.1425, five or more times, until the first

anniversary of the date of the most recent violation.

DPS estimates that system modifications would cost \$28,500 in fiscal year 2006; however, it is assumed this can be accomplished within existing resources.

The bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, VDS, SJ, LM