

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 17, 2007**

**TO:** Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB800** by Dutton (Relating to permitting certain persons placed on deferred adjudication to seek an expunction of arrest records and files. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB800, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from STATE HIGHWAY FUND 6</b>	<b>Change in Number of State Employees from FY 2007</b>
2008	(\$2,815,176)	47.0
2009	(\$1,951,740)	47.0
2010	(\$330,735)	7.0
2011	(\$330,735)	7.0
2012	(\$330,735)	7.0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure by allowing a district court to expunge all records and files relating to the arrest of a person who has been placed on deferred adjudication community supervision, unless the offense for which the person was placed on deferred community supervision was under Penal Code, Sections 19.02 (Murder), 19.03 (Capital Murder), 20.04 (Aggravated Kidnapping), 21.11 (Indecency With a Child), 22.011 (Sexual Assault), 22.02 (Aggravated Assault), 22.021 (Aggravated Sexual Assault), or 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual).

The bill would take effect on September 1, 2007.

**Methodology**

The Department of Public Safety (DPS) Crime Records Service currently has records for 1,035,491 deferred adjudications of which approximately 80% or 828,393 were dismissed. DPS expects to receive petitions on 10% or 82,839 of those existing dismissed deferred adjudications during 2008 and 2009. For 2010 through 2012, DPS estimates 1% or 8,284 of the 828,393 existing, dismissed, deferred adjudications to submit petitions. In addition, DPS estimates new cases for which the person was placed on deferred adjudication community supervision equal approximately 80,000 per year of which 80% or 64,000 are subsequently dismissed. DPS estimates new expunction petitions will be filed in approximately 10% or 6,400 of these cases beginning in FY 2008 and continuing each year after.

Based on this information, DPS estimates the increase of existing cases (82,839 cases) plus the estimated number of new cases 6,400 totaling 89,239 as the number of increased expunges per year for 2008 and 2009. DPS estimates the increase of existing cases 8,284 plus the estimated number of new cases 6,400 totaling 14,684 as the number of increased expunges per year for 2010 to 2012.

The analysis assumes that each full-time-equivalent (FTE) processes 2,000 expunctions annually. The analysis also assumes that an additional 47 FTEs (45 Administrative Assistant III positions at \$28,666 per year and 2 Administrative Assistant IV supervisor positions at \$32,065 per year) will be needed in 2008 and 2009 to process the additional 89,239 expunction requests. For 2010 through 2012, this analysis assumes 7 FTEs (Administrative Assistant III positions at \$28,666 per year) each year to process the additional 14,684 expunction requests. It is also assumed that additional office space will be required to accommodate the additional personnel at an estimated lease cost of \$45,412 per year. Other operating expenses include maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment.

## **Technology**

The analysis includes estimated technology costs of computers, printers, enterprise agreements totaling \$128,357 in fiscal year 2008. Fiscal year 2009 includes a technology impact of \$7,003 and fiscal years 2010 through 2012 include \$1,043 per year for continued enterprise software agreements.

## **Local Government Impact**

Dallas County estimated that it would need five additional clerks at a minimum cost of \$168,000 per year to handle the workload created by the expunction process created by the provisions of the bill.

Harris County estimated costs of \$241, 824 in new staff and capital outlay in fiscal year 2008; these costs would rise to \$414,777 in fiscal year 2012. The expunction fee of \$172 would only partially offset these increased costs.

Tarrant County reported costs of \$473,874 in fiscal year 2008 which would cover six new personnel, capital outlay for the new employees, and new operational costs, mostly postage. The county would add one employee each subsequent fiscal year, eventually reaching ten new personnel in fiscal year 2010 at a cost of \$881,027.

Bexar, Fort Bend, Tom Green, Travis, and Williamson counties reported that implementing the provisions of the bill would have no significant fiscal impact on their governments.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety

**LBB Staff:** JOB, ES, GG, LG, KJG