

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB1303 by Pena (Relating to the manner of providing notice of a petition or order for the expunction or nondisclosure of certain criminal records.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure relating to the manner of providing notice of a petition or order for the expunction or nondisclosure of certain criminal records.

Section 1 of the bill would amend the Code of Criminal Procedure by requiring the court to set a hearing on the matter not more than 30 days after the petition has been filed. The court would give each official, agency or other entity named in the petition reasonable notice of the hearing through certified mail with return receipt requested or through secure electronic mail, electronic transmission or facsimile transmission.

Section 2 of the bill would amend the Code of Criminal Procedure by requiring the clerk of the court to send a certified copy of the order to the Crime Records Service of the Department of Public Safety (DPS) when the order of expunction is completed. In addition, the copy of the order would be sent to each official or agency or other entity designated by the person who is the subject of the order. The clerk of the court would send certified copy of the order by secure electronic mail, electronic transmission, or facsimile transmission, or by certified mail with return receipt requested. The clerk may substitute hand delivery for certified mail with receipt for the hand-delivered order. DPS is also required to notify any central federal depository of criminal records through secure electronic mail, electronic transmission or facsimile transmission of the order and explanation of the effect of the order.

Section 3 of the bill would amend the Government Code by requiring the clerk of the court to send all relevant criminal history record information contained in the order and send the information by secure electronic mail, electronic transmission, or facsimile transmission, to the Crime Records Service of the Department of Public Safety after an order of nondisclosure has been issued. This should be done not later than the 15th business day after the order of nondisclosure has been issued.

The bill would also amend the Government Code by requiring the DPS to seal any criminal history record information maintained by the department that is the subject of the order within 10 business days after the receipt of an order. The bill would further require the department to send all relevant criminal history record information contained in the order by secure electronic mail, electronic transmission, or facsimile transmission, to law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other official agencies or other entities of this state or of any political subdivision of this state.

The director of DPS, in consultation with the Office of Court Administration of the Texas Judicial System, shall adopt rules regarding minimum standards for the security of secure electronic mail, electronic transmissions, and facsimile transmissions. The bill would amend the Government Code by requiring any criminal history record information maintained by the individual or entity that is the subject of the order be sealed not more than 30 business days after the receipt of relevant criminal

history record information contained in the order.

The bill would take effect on September 1, 2007.

Local Government Impact

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

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

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