

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

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

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

IN RE: SB1737 by West, Royce (Relating to certain requirements applicable to orders of expunction or nondisclosure of criminal history records and to the protection of information that is the subject of one of those orders; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1737, Committee Report 1st House, Substituted: a positive impact of \$2,100,000 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:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2008 | \$1,050,000 |
| 2009 | \$1,050,000 |
| 2010 | \$1,050,000 |
| 2011 | \$1,050,000 |
| 2012 | \$1,050,000 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1 | Probable Savings/(Cost) from <i>STATE HIGHWAY FUND</i> 6 | Change in Number of State Employees from FY 2007 |
|-------------|---|---|---|
| 2008 | \$1,050,000 | (\$1,397,551) | 22.0 |
| 2009 | \$1,050,000 | (\$861,760) | 22.0 |
| 2010 | \$1,050,000 | (\$861,760) | 22.0 |
| 2011 | \$1,050,000 | (\$1,095,571) | 22.0 |
| 2012 | \$1,050,000 | (\$870,584) | 22.0 |

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and Government Code relating to certain requirements applicable to orders of expunction or nondisclosure of criminal history record information and the the protection of information that is the subject of one of those orders.

The bill would amend the Code of Criminal Procedure, Article 55 and Government Code, Sections 411 and 552 by requiring the Department of Public Safety (DPS) to notify every entity named in the order or that purchases criminal history record information (CHRI) from DPS. For nondisclosures, the bill requires DPS to notify private entities that purchased or are likely to have CHRI that is subject to the order. The bill states the

petitioner could list an unlimited number of private entities in a petition for expunction and DPS would be required to notify each entity, by secure electronic mail, electronic transmission, or facsimile notice of the expunction with an explanation of the effect of the order and a request that the entity destroy any relevant information in their possession. The bill states DPS can only provide private entities conviction or deferred adjudication information. The bill also prohibits dissemination of CHRI to private entities found by a court to have committed three or more violations of disseminating CHRI order expunged or non-disclosed. The bill would also repeal Government Code, Section 411.081(j). The bill would take effect on September 1, 2007.

Methodology

DPS estimates the provisions of the bill would require 80,000 orders of expunction notices and 70,000 orders of non-disclosure notices for a total of 150,000 notices per year. The bill states that DPS can charge private entities that purchase CHRI a fee in an amount sufficient to recover costs incurred by the agency. DPS estimates that the amount charged that would be sufficient to recover the costs to be approximately \$7.00 per notice. Based on this fee, DPS estimates that the fee would generate an additional \$1,050,000 (150,000 x \$7.00) in General Revenue per year.

DPS states that an additional 22 FTEs per year would be required to implement the provisions of the bill due to increased workload (10 clerks and 12 administrative assistants) to process and archive application materials, input registration information into the database, and provide administrative support to the agency. Other operating expenses such as maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment, are also included in the cost estimate.

The Office of Attorney General and the Office of Court Administration anticipate that the bill would have no significant fiscal impact to their agencies.

Technology

The analysis includes estimated technology costs for computers, printers, and enterprise agreements totaling \$268,402 in fiscal year 2008. Fiscal years 2009, 2010, and 2012 include a technology impact of \$3,278 per year for continued enterprise software agreements. Fiscal year 2011 includes \$228,265 for replacement computer equipment.

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, 302 Office of the Attorney General

LBB Staff: JOB, ES, GG, LG