

## **BILL ANALYSIS**

C.S.H.B. 2059  
By: Gallego  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, the clerk of a court must post public notice of an upcoming criminal court docket setting at least 48 hours before the case is heard. However, this is often not enough time to provide the public and the defender with adequate notice to prepare for the docket. Under current law, a court cannot enter on record an indictment against a defendant until that defendant is either in custody or under bond, but sometimes the public becomes aware of an indictment before it has been appropriately entered into court records. An ex parte petition to expunge a criminal record may not currently include contact information for state agencies or political subdivisions referred to in the petition. The inclusion of contact information would facilitate the bureaucratic process of expunction by providing information that would be useful to staff who process the petition.

C.S.H.B. 2059 requires the clerk of a court that does not provide Internet access to the court's criminal case records to post public notice of a court docket setting as soon as the court has notified the clerk. The bill prohibits an indictment by a grand jury from being made public if the defendant is not in custody or under bond at the time of the presentment of indictment. The bill requires a petition for expunction to include the applicable physical or e-mail addresses of any agencies or political subdivisions to which the petition refers and requires an attorney for the state who forwards a petition for expunction to the appropriate court to include those addresses.

### **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**

C.S.H.B. 2059 amends the Code of Criminal Procedure to require the clerk of a court that does not provide online Internet access to that court's criminal case records to post in a designated public place in the courthouse notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting, rather than not less than 48 hours before the docket setting. The bill prohibits an indictment by a grand jury from being made public if the defendant is not in custody or under bond at the time of the presentment of indictment.

C.S.H.B. 2059 requires certain petitions for expunction to include the applicable physical or e-mail addresses of the governmental and private entities that compile and disseminate criminal history record information that the petitioner has reason to believe have records or files subject to expunction and that are currently required to be listed in the petition, or an explanation for why such entities and physical or e-mail addresses are not included. The bill requires an attorney representing the state in the prosecution of felonies to attach to a required copy of the application for expunction filed with the attorney by a person entitled to expunction the applicable physical or e-mail addresses of the governmental and private entities that compile and disseminate criminal history record information that are reasonably likely to have records or files containing information that is subject to expunction.

**EFFECTIVE DATE**

September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2059 retains current law by removing a provision in the original amending current law to require any cash funds deposited in lieu of sureties as a bail bond to be receipted for and refunded to the defendant, on order of the court, after the defendant complies with bond conditions and pays any court costs the court determines are due, rather than if and when the defendant complies with bond conditions.