

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 28, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB945 by Dutton (Relating to permitting certain persons placed on deferred adjudication to seek an expunction of arrest records and files.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB945, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from State Highway Fund 6	Change in Number of State Employees from FY 2009
2010	(\$3,213,686)	54.0
2011	(\$2,822,819)	54.0
2012	(\$423,673)	9.0
2013	(\$454,605)	9.0
2014	(\$423,673)	9.0

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, 2009.

Methodology

The Department of Public Safety (DPS) Crime Records Service currently has records for 1,247,133 deferred adjudications, of which approximately 80 percent, or 997,706 were dismissed. DPS expects to receive petitions on 10 percent, or 99,771 of those existing dismissed deferred adjudications during 2010 and 2011. For 2012 through 2014, DPS estimates 1 percent, or 9,977 of the 997,706 existing, dismissed, deferred adjudications to submit petitions for expunction. In addition, DPS estimates new cases for which the person was placed on deferred adjudication community supervision to equal approximately 95,000 per year, of which 80 percent, or 76,000 are subsequently dismissed. DPS estimates new expunction petitions will be filed in approximately 10 percent or 7,600 of these cases beginning in fiscal year 2010 and continuing each year thereafter.

Based on this information, DPS estimates the increase of existing cases (99,771) plus the estimated new cases (7,600) to total 107,371 additional expunctions per year for 2010 and 2011. DPS estimates the increase of existing cases (9,977) plus the estimated new cases (7,600) to total 17,577 additional expunctions per year for 2012 through 2014.

The analysis assumes that each full-time-equivalent (FTE) processes 2,000 expunctions annually. The analysis also assumes that an additional 54 FTEs (52 Administrative Assistant II positions at \$33,797 per year and 2 Administrative Assistant IV supervisor positions at \$38,507 per year) will be needed in 2010 and 2011 to process the additional 107,371 expunction requests. For 2012 through 2014, this analysis assumes 9 FTEs (Administrative Assistant II positions at \$33,797 per year) will be needed each year to process the 17,577 additional requests. It is also assumed that additional office space will be required to accommodate the additional personnel at an estimated lease cost of \$279,947 per year for fiscal years 2010 and 2011. 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, and enterprise agreements totaling \$123,968 in fiscal year 2010 and \$8,046 in fiscal year 2011. Fiscal years 2012 and 2014 include a technology impact of \$1,430 and fiscal year 2013 includes \$17,089.

Local Government Impact

Tarrant County estimated a cost of \$283,200 in fiscal year 2009 that would increase yearly to \$400,000 in 2014. The costs would include the salary and benefits for six additional clerks, capital outlay, and postage. Tarrant County also reported the revenue from filing fees could offset some of the expenses incurred due to the increased number of expunctions.

Travis County estimated a cost of \$100,000 in fiscal year 2009, which would include the salary and benefits for one additional clerk, capital outlay, and supplies. Travis County also stated that the agency uses electronic mail to disseminate expunction notices to governmental agencies, which drastically reduces the workload for processing cases, while agencies that do not use electronic mail may incur greater expenses.

Dallas and Washington counties reported that implementing the provisions of the bill would have no significant fiscal impact on their government.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 697 Board of Pardons and Paroles

LBB Staff: JOB, ESi, GG, MWU, TP