

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 29, 2009

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

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

IN RE: HB2213 by Farrar (Relating to the consequences of community supervision and to petitions and procedures for the expunction of criminal records and files and to orders of nondisclosure.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2213, Committee Report 1st House, Substituted: 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 <i>State Highway Fund</i> 6	Change in Number of State Employees from FY 2009
2010	(\$1,091,532)	19.0
2011	(\$1,017,880)	19.0
2012	(\$882,781)	19.0
2013	(\$972,438)	19.0
2014	(\$881,336)	19.0

Fiscal Analysis

The bill would amend various sections of the Code of Criminal Procedure, Government Code and Health and Safety Code that relate to community supervision and to petitions and procedures for the expunction of criminal records and orders of nondisclosure. Section two of the bill amends the Code of Criminal Procedure to outline a timeline under which persons placed on community supervision for certain offenses may become eligible for an expunction after a discharge or dismissal. The bill would remove eligibility for an expunction from persons whose offense was under Chapter 21 (Sexual Offenses), 22 (Assaultive Offenses), 36 (Bribery and Corrupt Influence), 39 (Abuse of Office), or 49 (Intoxication and Alcoholic Beverage Offenses), of the Penal Code. The bill would also remove eligibility for an expunction from persons whose crime has been enhanced by a previous offense or for persons who have had an offense previously expunged, other than an offense under the Transportation

Code punishable by fine only. Persons entitled to expunctions under this section are only eligible if they have not been convicted of any other offense in the five years preceding the time of filing the petition and are not subject to pending charges for any other offense at the time of filing the petition.

The bill would repeal Section 411.081(i), Government Code, which allows a criminal justice agency to disclose criminal history record information that is the subject of nondisclosure to certain noncriminal justice agencies or entities.

Methodology

The Department of Public Safety (DPS) estimates that 821,964 current records would be eligible for expunction under the provisions of the bill, as well as 52,610 new records that are disposed each year. This analysis assumes petitions for expunction of existing records would be submitted at a rate of 15 percent (123,295) over the five year period, or approximately 24,659 per year. It is assumed that petitions for expunction of new records would be submitted at a rate of 25 percent per year (13,153), for a total of 37,811 additional expunction petitions to be received each year.

This analysis assumes that each full-time equivalent (FTE) processes 2,000 expunctions annually. This analysis also assumes that an additional 19 FTEs (Administrative Assistant II positions at salary group A11 at \$31,055 per year and career progression in 12 months to Administrative Assistants III salary group A13 at \$34,492 per year) would be needed to process the additional 37,811 expunction requests. It is also assumed that additional office space will be required to accommodate the additional personnel at an estimated lease cost of \$137,280 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.

Technology

The analysis includes estimated technology costs of computers, printers, and enterprise agreements totaling \$58,622 in fiscal year 2010 and \$2,899 in fiscal year 2011. The technology impact in fiscal year 2012 would be \$3,164, in fiscal year 2013 it would be \$48,464, and in fiscal year 2014 it would be \$2,913.

Local Government Impact

The fiscal impact to local governments could be significant and would vary depending on the number of petitions for expunction that meet the criteria established in the provisions of the bill.

The district clerk's office in Tom Green County reported the bill would require one additional staff position at a cost of \$30,000 per year, with a gradual increase of \$2,000 annually. Other counties that are similar in population size to Tom Green County (104,000) would presumably incur the same type of administrative costs for their courts as well. For counties larger than Tom Green, any additional cost involved would be larger.

One large urban county reported mailing over 11,000 notices by certified mail in a fiscal year. The certified rate of \$5 applied (11,000 x \$5 = \$55,000) does not account for inflation in the postal prices.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, MWU