

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

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

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

IN RE: HB351 by Veasey (Relating to the expunction of records and files relating to a person's arrest.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure by allowing for the expunction of records and files relating to the arrest of an individual. The bill would allow for the expunction of records for persons convicted and subsequently granted relief on the basis of actual innocence which would result in an increase in expunctions by an estimated twelve (12), or less, cases per year. The bill would allow a person to expunge records if he/she was not charged via an indictment or information has been dismissed in the 180 days following the arrest. Currently, the person must wait until the statute of limitations expires. This should cause an increase in the number of expunctions filed for new arrests and those arrests which are currently waiting for the statute of limitations to expire. In addition, the bill repeals Article 55.01 (a-1) which requires that a person not be convicted of a felony in the five years preceding the date of arrest to be eligible for expunction and allows for the expunction of records for arrests without a statute of limitations, such as murder, sexual assault and indecency with a child, which were previously barred. The bill would allow a person to expunge records if the prosecutor recommends the expunction before the person is tried for the offense. The prosecutor can agree to the expunction without considering the statute of limitations, lack of probable cause or the above mentioned 180 day "waiting period". The bill would allow most unadjudicated arrests to be expunged, except those that arose out of the same criminal episode of a previous conviction.

The Office of Court Administration and the Texas Department of Criminal Justice anticipate no significant fiscal impact from the bill. It is assumed that the Department of Public Safety could implement the provisions of the bill with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 696 Department of Criminal Justice

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