LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 22, 2011

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

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

IN RE: **HB546** 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 HB546, As Introduced: an impact of $0 through the biennium ending August 31, 2013.

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
2012	$0
2013	$0
2014	$0
2015	$0
2016	$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
2012	($2,388,364)	40.8
2013	($2,557,622)	40.8
2014	($1,093,634)	14.8
2015	($228,711)	14.8
2016	($223,824)	6.8

Fiscal Analysis

The bill would amend Article 55.01 (b), 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, 2011.

Methodology

The bill would cause an increase in the number of expunction orders that need to be reviewed and processed for customers. The Texas Department of Public Safety (DPS) currently has 1,453,459 deferred adjudications on record of which approximately 80% (1,162,767) were dismissed. DPS expects to receive petitions on 10%, or 116,276, of those dismissed deferred adjudications per year during the first and second year of implementation. In subsequent years, DPS anticipates 1% (11,628) of existing dismissed deferred adjudications (1,162,767) will submit petitions in addition to new deferred adjudications.

New cases for which the person was placed on deferred adjudication community supervision equal approximately 100,000 per year of which 80% are subsequently dismissed or 80,000. DPS anticipates new expunction petitions will be filed in approximately 10% of these cases or (8,000) beginning in FY 2012 and continuing annually.

Currently, a Public Safety Records Technician II processes 4,800 expunctions annually. An additional 25 FTEs will be necessary during fiscal year 2012 and fiscal year 2013 to accommodate the large increase plus one Administrative Assistant III for supervisory duties. During fiscal years 2014 through 2016, DPS will need to retain four Public Safety Records Technician IIs to maintain the number of anticipated expunctions to process. In addition, 7 Administrative Assistant IIIs will be employed for FY 2012 through FY 2014 plus one Administrative Assistant IV to perform supervisory duties. DPS will also need Accountant Vs to handle all accounting, financial management, payroll, accounts payable, accounts receivable, human capital management and support functions due to this effort.

Technology

No significant impact to technology is antiticipated as a result of this bill.

Local Government Impact

The bill would increase the number of expunction cases filed, resulting in an increased workload for district courts. Cost increases would vary by county depending on the number of persons seeking expunction under the provisions of the bill.

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, YD, KKR, TB