

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 26, 2011

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

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

IN RE: **HB605** 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB605, As Introduced: a negative impact of (\$562,708) 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	(\$283,826)
2013	(\$278,882)
2014	(\$278,882)
2015	(\$278,882)
2016	(\$278,882)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from State Highway Fund 6	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2012	(\$5,013,748)	(\$283,826)	83.5
2013	(\$4,395,186)	(\$278,882)	83.5
2014	(\$4,395,186)	(\$278,882)	83.5
2015	(\$4,395,186)	(\$278,882)	83.5
2016	(\$4,395,186)	(\$278,882)	83.5

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. The bill would take effect September 1, 2011.

## 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 (13,152), for a total of 37,811 additional expunction petitions to be received each year.

DPS indicates the additional records eligible for expunction would require 77.5 additional employees to process the expected increase in expunctions. Currently, DPS processes approximately 7,500 expunctions per year. According to DPS estimates, the provisions of the bill would create an approximate five-fold workload increase related to expunctions. This analysis includes all costs associated with the additional employees.

The Board of Pardons and Paroles would likely be impacted by the number of expunctions required by the bill, particularly because it is retroactive. This analysis assumes an additional 6 employees and associated costs would be necessary to implement the provisions of the bill.

## 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.

**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, YD, AI