

**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: HB913** by Dutton (Relating to the automatic expunction of criminal records.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB913, As Introduced: a negative impact of (\$1,535,622) 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)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2012        | (\$774,403)  |
| 2013        | (\$761,219)  |
| 2014        | (\$761,219)  |
| 2015        | (\$761,219)  |
| 2016        | (\$761,219)  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Savings/(Cost) from<br><i>General Revenue Fund</i><br>1 | Probable Savings/(Cost) from<br><i>State Highway Fund</i><br>6 |
|-------------|--|--|
| 2012        | (\$774,403)  | (\$6,062,135)  |
| 2013        | (\$761,219)  | (\$5,352,668)  |
| 2014        | (\$761,219)  | (\$5,352,668)  |
| 2015        | (\$761,219)  | (\$5,482,675)  |
| 2016        | (\$761,219)  | (\$5,352,668)  |

| Fiscal Year | Change in Number of State<br>Employees from FY 2011 |
|-------------|---|
| 2012        | 96.3  |
| 2013        | 96.3  |
| 2014        | 96.3  |
| 2015        | 96.3  |
| 2016        | 96.3  |

**Fiscal Analysis**

The bill would amend Article 55.01 (a) and Article 55.02 of the Code of Criminal Procedure. This bill

would provide for an automatic expunction on offenses if an indictment, complaint or information charging a person with the commission of an offense has not been presented against the person, before the second anniversary of the date of arrest; or if a person was acquitted, pardoned or the offense was dismissed. The bill would shift the responsibility from the defendant to the attorney representing the state and to the court for implementing the legal processes necessary to secure an order of expunction. The bill would repeal Article 55.01, Subsection (a-1) which outlines certain qualifying factors for expunction; Article 55.02, Section 2; and Article 55.05 of the Code of Criminal Procedure. The bill would also repeal Article 102.006 of the Code of Criminal Procedure and eliminate all fees which are currently charged for expunction actions.

The bill would amend Section 411.151 (b) of the Government Code to coincide with new requirements shifting the responsibility from the defendant to the attorney representing the state and to the court for implementing the legal processes necessary to secure an order of expunction.

### **Methodology**

The Texas Department of Public Safety (DPS) currently handles 8,000 expunctions per year with four administrative assistants, one legal assistant and one attorney in the Office of General Counsel (OGC). DPS expects an additional 82,000 expunctions due to this bill. As a result, OGC will need two attorneys, 14 legal assistants, 41 administrative assistants and one clerk to handle the increased mail volume. Crime Records Service (CRS) will need an additional: 19 public safety records technicians, nine fingerprint technicians, four micrographics technicians, one administrative assistant to supervise the increased CRS workload and one clerk to handle the increased mail volume. According to DPS, they need additional support for every 8 direct delivery or support staff. Based on the increased numbers of FTEs, DPS will need 4.3 Accountant Vs to provide accounting, financial management, payroll, accounts payable, accounts receivable, human capital management and support functions.

The Board of Pardons and Paroles estimates a General Revenue Fund cost of \$1.5 million for the 2012-13 biennium as a result of an estimated 2,700 persons who would qualify for expungement after a revocation hearing is conducted. The cost is primarily attributed to staff for redacting information from the revocation hearing files.

### **Technology**

No impact to technology is anticipated due to this bill.

### **Local Government Impact**

The bill would eliminate all fees and costs which are currently charged for expunction services.

According to the Office of Court Administration, counties would experience a decrease in revenue due to the elimination of expunction fees. The additional responsibilities placed upon the courts and prosecutors resulting from this bill may require additional staff.

Comal County and Shelby County reported that they anticipated no significant fiscal impact. The Travis County district clerk anticipated \$250,000 in revenue losses for FY 2012, \$260,000 in revenue losses for FY 2013, and \$270,000 in revenue losses for FY 2014, FY 2015 and FY 2016.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

**LBB Staff:** JOB, ESi, GG, YD, TB, AI, KKR