

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Darby

H.B. No. 1435

A BILL TO BE ENTITLED

AN ACT

relating to certain notices, reports, and descriptions provided by  
or filed with court and county clerks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 46C.003, Code of Criminal Procedure, is  
amended to read as follows:

Art. 46C.003. VICTIM NOTIFICATION OF RELEASE. If the court  
issues an order that requires the release of an acquitted person on  
discharge or on a regimen of outpatient care, the clerk of the court  
issuing the order, using the information provided on any victim  
impact statement received by the court under Article 56.03 or other  
information made available to the court, shall notify the victim or  
the victim's guardian or close relative of the release.  
Notwithstanding Article 56.03(f), the clerk of the court may  
inspect a victim impact statement for the purpose of notification  
under this article. On request, a victim assistance coordinator may  
provide the clerk of the court with information or other assistance  
necessary for the clerk to comply with this article.

SECTION 2. Section 58.110(c), Family Code, is amended to  
read as follows:

(c) The clerk of the court exercising jurisdiction over a  
juvenile offender's case shall report the disposition of the case  
to the department. ~~[A clerk of the court who violates this  
subsection commits an offense. An offense under this subsection is~~

1 ~~a Class C misdemeanor.]~~

2       SECTION 3. Section 85.042(a-1), Family Code, is amended to  
3 read as follows:

4       (a-1) This subsection applies only if the respondent, at the  
5 time of issuance of an original or modified protective order under  
6 this subtitle, is a member of the state military forces or is  
7 serving in the armed forces of the United States in an active-duty  
8 status and the applicant or the applicant's attorney provides to  
9 the clerk of the court the mailing address of the staff judge  
10 advocate or provost marshal, as applicable. In addition to  
11 complying with Subsection (a), the clerk of the court shall also  
12 provide a copy of the protective order and the information  
13 described by that subsection to the staff judge advocate at Joint  
14 Force Headquarters or the provost marshal of the military  
15 installation to which the respondent is assigned with the intent  
16 that the commanding officer will be notified, as applicable.

17       SECTION 4. Sections 402.010(a) and (c), Government Code,  
18 are amended to read as follows:

19       (a) In an action in which a party to the litigation files a  
20 petition, motion, or other pleading challenging the  
21 constitutionality of a statute of this state, the party filing the  
22 petition, motion, or other pleading ~~[court]~~ shall, if the attorney  
23 general is not a party to or counsel involved in the litigation,  
24 serve notice of the constitutional question and a copy of the  
25 petition, motion, or other pleading that raises the challenge on  
26 the attorney general either by certified or registered mail or  
27 electronically to an e-mail address designated by the attorney

1 general for the purposes of this section. Notice under this  
2 section must identify the statute in question, state the basis for  
3 the challenge, and specify the petition, motion, or other pleading  
4 that raises the challenge.

5 (c) A party's ~~[court's]~~ failure to file or serve notice as  
6 required by Subsection (a) does not deprive the court of  
7 jurisdiction or forfeit an otherwise timely filed claim or defense  
8 based on the challenge to the constitutionality of a statute of this  
9 state.

10 SECTION 5. Sections 363.064(b) and (c), Health and Safety  
11 Code, are amended to read as follows:

12 (b) If the boundaries of a municipal solid waste unit that  
13 is no longer operating are known to be wholly on an identifiable  
14 tract, the council of governments for the area in which the former  
15 landfill unit is located shall notify the owner of land that  
16 overlays the former landfill unit of the former use of the land and  
17 shall notify the county clerk of the county or counties in which the  
18 former landfill unit is located of the former use. The notice to the  
19 county clerk must include:

20 (1) a description of the exact boundaries of the  
21 former landfill unit or, if the exact boundaries are not known, the  
22 best approximation of each unit's boundaries;

23 (2) a legal description of the parcel or parcels of  
24 land in which the former landfill unit is located;

25 (3) notice of the former landfill unit's former use;  
26 and

27 (4) notice of the restrictions on the land imposed by

~~this subchapter. [The notice requirements of this subsection do not apply if the exact boundaries of a former landfill unit are not known.]~~

(c) The county clerk shall record the descriptions and notices submitted by a council of governments under Subsection (b). The county clerk may prescribe the method of arranging and indexing the descriptions and notices ~~[on the deed records of land formerly used as a municipal solid waste landfill a description of the exact boundaries of the former landfill unit, or, if the exact boundaries are not known, the best approximation of each unit's boundaries, together with a legal description of the parcel or parcels of land in which the former landfill unit is located, notice of its former use, and notice of the restrictions on the development or lease of the land imposed by this subchapter].~~ The county clerk shall make the descriptions and notices ~~[records]~~ available for public inspection.

SECTION 6. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. The changes in law made by this Act apply only to a notice, report, or description provided or filed on or after the effective date of this Act.

SECTION 8. This Act takes effect September 1, 2013.

ADOPTED

MAY 22 2013

*Henry E. Paul*  
San Antonio

*Seliger*

By: \_\_\_\_\_

H.B. No. 1435

Substitute the following for H.B. No. 1435:

By: *Spencer H. J. J. J.*

C.S. H.B. No. 1435

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information made available to the court, shall notify the victim or  
the victim's guardian or close relative of the release.  
Notwithstanding Article 56.03(f), the clerk of the court may  
inspect a victim impact statement for the purpose of notification  
under this article. On request, a victim assistance coordinator may  
provide the clerk of the court with information or other assistance  
necessary for the clerk to comply with this article.

SECTION 2. Section 58.110(c), Family Code, is amended to  
read as follows:

(c) The clerk of the court exercising jurisdiction over a  
juvenile offender's case shall report the disposition of the case  
to the department. ~~[A clerk of the court who violates this  
subsection commits an offense. An offense under this subsection is~~

1 ~~a Class C misdemeanor.]~~

2 SECTION 3. Section 85.042(a-1), Family Code, is amended to  
3 read as follows:

4 (a-1) This subsection applies only if the respondent, at the  
5 time of issuance of an original or modified protective order under  
6 this subtitle, is a member of the state military forces or is  
7 serving in the armed forces of the United States in an active-duty  
8 status and the applicant or the applicant's attorney provides to  
9 the clerk of the court the mailing address of the staff judge  
10 advocate or provost marshal, as applicable. In addition to  
11 complying with Subsection (a), the clerk of the court shall also  
12 provide a copy of the protective order and the information  
13 described by that subsection to the staff judge advocate at Joint  
14 Force Headquarters or the provost marshal of the military  
15 installation to which the respondent is assigned with the intent  
16 that the commanding officer will be notified, as applicable.

17 SECTION 4. Section 402.010, Government Code, is amended by  
18 amending Subsections (a) and (c) and adding Subsection (a-1) to  
19 read as follows:

20 (a) In an action in which a party to the litigation files a  
21 petition, motion, or other pleading challenging the  
22 constitutionality of a statute of this state, the party shall file  
23 the form required by Subsection (a-1). The court shall, if the  
24 attorney general is not a party to or counsel involved in the  
25 litigation, serve notice of the constitutional challenge  
26 [~~question~~] and a copy of the petition, motion, or other pleading  
27 that raises the challenge on the attorney general either by

1 certified or registered mail or electronically to an e-mail address  
2 designated by the attorney general for the purposes of this  
3 section[. ~~Notice under this section must identify the statute in~~  
4 ~~question, state the basis for the challenge, and specify the~~  
5 ~~petition, motion, or other pleading that raises the challenge~~].

6       (a-1) The Office of Court Administration of the Texas  
7 Judicial System shall adopt the form that a party challenging the  
8 constitutionality of a statute of this state must file with the  
9 court in which the action is pending indicating which pleading  
10 should be served on the attorney general in accordance with this  
11 section.

12       (c) A party's failure to file as required by Subsection (a)  
13 or a court's failure to [file or] serve notice as required by  
14 Subsection (a) does not deprive the court of jurisdiction or  
15 forfeit an otherwise timely filed claim or defense based on the  
16 challenge to the constitutionality of a statute of this state.

17       SECTION 5. Sections 363.064(b) and (c), Health and Safety  
18 Code, are amended to read as follows:

19       (b) If the boundaries of a municipal solid waste unit that  
20 is no longer operating are known to be wholly on an identifiable  
21 tract, the council of governments for the area in which the former  
22 landfill unit is located shall notify the owner of land that  
23 overlays the former landfill unit of the former use of the land and  
24 shall notify the county clerk of the county or counties in which the  
25 former landfill unit is located of the former use. The notice to the  
26 county clerk must include:

27       (1) a description of the exact boundaries of the

1 former landfill unit or, if the exact boundaries are not known, the  
2 best approximation of each unit's boundaries;

3 (2) a legal description of the parcel or parcels of  
4 land in which the former landfill unit is located;

5 (3) notice of the former landfill unit's former use;  
6 and

7 (4) notice of the restrictions on the land imposed by  
8 this subchapter. [The notice requirements of this subsection do not  
9 apply if the exact boundaries of a former landfill unit are not  
10 known.]

11 (c) The county clerk shall record the descriptions and  
12 notices submitted by a council of governments under Subsection (b).  
13 The county clerk may prescribe the method of arranging and indexing  
14 the descriptions and notices [on the deed records of land formerly  
15 used as a municipal solid waste landfill a description of the exact  
16 boundaries of the former landfill unit, or, if the exact boundaries  
17 are not known, the best approximation of each unit's boundaries,  
18 together with a legal description of the parcel or parcels of land  
19 in which the former landfill unit is located, notice of its former  
20 use, and notice of the restrictions on the development or lease of  
21 the land imposed by this subchapter]. The county clerk shall make  
22 the descriptions and notices [~~records~~] available for public  
23 inspection.

24 SECTION 6. The changes in law made by this Act apply only to  
25 an offense committed on or after the effective date of this Act. An  
26 offense committed before the effective date of this Act is governed  
27 by the law in effect on the date the offense was committed, and the



1 former law is continued in effect for that purpose. For purposes of  
2 this section, an offense was committed before the effective date of  
3 this Act if any element of the offense occurred before that date.

4 SECTION 7. The changes in law made by this Act apply only to  
5 a notice, report, description, petition, motion, or other pleading  
6 provided or filed on or after the effective date of this Act.

7 SECTION 8. This Act takes effect September 1, 2013.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 23, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1435** by Darby (Relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure, the Family Code, the Government Code, and the Health and Safety Code to provide requirements regarding certain notices, reports, and descriptions provided by or filed with court and county clerks. On request, a victim assistance coordinator may provide the clerk of the court with information or other assistance necessary for the clerk to comply with Article 46C.003. The Office of Court Administration would be required to adopt the form as defined by the provisions of the bill.

The bill would remove the Class C misdemeanor offense which currently exists for a clerk who fails to report the disposition of a case. A county clerk would be required to record descriptions and notices submitted by a council of governments, and make the descriptions and notices available for public inspection.

The Office of Court Administration reported no significant fiscal impact is anticipated. The Office of the Attorney General anticipates any additional work as a result of the passage of the bill could be reasonably absorbed with current resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, SD, CL, TP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Royce West, Chair, Senate Committee on Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1435** by Darby (Relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Code of Criminal Procedure, the Family Code, the Government Code, and the Health and Safety Code to provide requirements regarding certain notices, reports, and descriptions provided by or filed with court and county clerks. On request, a victim assistance coordinator may provide the clerk of the court with information or other assistance necessary for the clerk to comply with Article 46C.003. The Office of Court Administration would be required to adopt the form as defined by the provisions of the bill.

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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, CL, TP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 8, 2013**

**TO:** Honorable Royce West, Chair, Senate Committee on Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1435** by Darby (Relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, CL, TP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 11, 2013**

**TO:** Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1435** by Darby (Relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would remove the Class C misdemeanor offense which currently exists for a clerk who fails to report the disposition of a case. A county clerk would be required to record descriptions and notices submitted by a council of governments, and make the descriptions and notices available for public inspection.

The Office of Court Administration reported no significant fiscal impact is anticipated. The Office of the Attorney General anticipates any additional work as a result of the passage of the bill could be reasonably absorbed with current resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, CL, TP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 29, 2013**

**TO:** Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1435** by Darby (Relating to certain notices, reports, and descriptions provided by or filed with court and county clerks.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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