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H.B. No. 1258

A BILL TO BE ENTITLED

AN ACT

relating to information publicly available in a state court  
document database; authorizing a fee.

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

SECTION 1. Subchapter I, Chapter 51, Government Code, is  
amended by adding Section 51.808 to read as follows:

Sec. 51.808. STATE COURT DOCUMENT DATABASE; INFORMATION  
AVAILABLE; IMMUNITY. (a) The purpose of this section is to ensure  
that advances in technology allowing the electronic transmission,  
retrieval, and storage of court documents do not compromise the  
integrity of official court records or violate the laws, rules, and  
court orders requiring the nondisclosure of sensitive or  
confidential information contained in the documents or in copies of  
those documents that are stored in a state court document database  
and accessible by the public.

(b) In this section:

(1) "Accessible by the public" related to a court  
document in the state court document database means that a person,  
other than a court clerk with whom the document was filed, a judge  
with subject matter jurisdiction over the case, the judge's staff,  
an attorney of record in the case, or a person who maintains or  
operates the database, has access to the document through the  
system.

(2) "State court document database" means a database

1 accessible by the public and established by the supreme court under  
2 this section for storing documents filed with a court in this state.

3 (c) A person who establishes, maintains, or operates the  
4 state court document database for the supreme court may allow  
5 public access to a document filed with a court in this state and  
6 included in the database only if:

7 (1) the database maintains each document included in a  
8 manner that complies with federal and state laws and orders of the  
9 court in which the document was filed related to confidentiality  
10 and nondisclosure of information; and

11 (2) a copy of each page of a document stored in the  
12 database clearly states that the document is an unofficial copy of a  
13 court document.

14 (d) The supreme court may authorize the Office of Court  
15 Administration of the Texas Judicial System to establish, operate,  
16 and maintain the state court document database under this section.  
17 The database may only include:

18 (1) court documents filed with a court on or after the  
19 60th day following the date on which the Office of Court  
20 Administration of the Texas Judicial System certifies to the  
21 supreme court that the database is fully operational and complies  
22 with this section; and

23 (2) any other documents authorized by the clerk of the  
24 court to be maintained in the state court document database.

25 (e) The Office of Court Administration of the Texas Judicial  
26 System shall collect a fee for each page or part of a page of a  
27 document electronically accessed by a member of the public from the

1 state court document database and deliver the fees collected under  
2 this section to the clerk of the court in which the document was  
3 originally filed for deposit in the county general fund. The fee is  
4 the amount set by rule by the supreme court through negotiated  
5 rulemaking, conducted in accordance with Chapter 2008 as if the  
6 supreme court were a state agency in the executive branch of state  
7 government, between court clerks and the supreme court.

8 (f) A person who establishes, maintains, or operates the  
9 state court document database under this section must comply with  
10 the laws, rules, and court orders related to sensitive data and  
11 confidential documents that govern court documents in the custody  
12 of a court clerk.

13 (g) A court clerk is not responsible for the management or  
14 removal of documents from the state court document database and is  
15 not liable for damages resulting from the release of court  
16 documents if the clerk in good faith performs the duties as clerk as  
17 provided by law and the Texas Rules of Civil Procedure. The court  
18 clerk, the county in which the court is located, and the  
19 commissioners court of the county in which the court is located are  
20 immune from suit and from liability for the release or disclosure by  
21 a third party of information that is confidential or otherwise  
22 prohibited from disclosure by law, rule, or court order and that is  
23 accessed from the state database.

24 SECTION 2. Section 411.075(b), Government Code, is amended  
25 to read as follows:

26 (b) Not later than 10 business days after receipt of  
27 relevant criminal history record information contained in an order

1 or a copy of an order under Subsection (a), the department shall  
2 seal any criminal history record information maintained by the  
3 department that is the subject of the order. The department shall  
4 also send all relevant criminal history record information  
5 contained in the order or a copy of the order by certified mail,  
6 return receipt requested, or secure electronic mail, electronic  
7 transmission, or facsimile transmission to the Office of Court  
8 Administration of the Texas Judicial System and to all:

9 (1) law enforcement agencies, jails or other detention  
10 facilities, magistrates, courts, prosecuting attorneys,  
11 correctional facilities, central state depositories of criminal  
12 records, and other officials or agencies or other entities of this  
13 state or of any political subdivision of this state;

14 (2) central federal depositories of criminal records  
15 that there is reason to believe have criminal history record  
16 information that is the subject of the order; and

17 (3) private entities that purchase criminal history  
18 record information from the department or that otherwise are likely  
19 to have criminal history record information that is subject to the  
20 order.

21 SECTION 3. Section 3(c), Article 55.02, Code of Criminal  
22 Procedure, is amended to read as follows:

23 (c) When the order of expunction is final, the clerk of the  
24 court shall send a certified copy of the order to the Crime Records  
25 Service of the Department of Public Safety, to the Office of Court  
26 Administration of the Texas Judicial System, and to each official  
27 or agency or other governmental entity of this state or of any

1 political subdivision of this state named in the order. The  
2 certified copy of the order must be sent by secure electronic mail,  
3 electronic transmission, or facsimile transmission or otherwise by  
4 certified mail, return receipt requested. In sending the order to a  
5 governmental entity named in the order, the clerk may elect to  
6 substitute hand delivery for certified mail under this subsection,  
7 but the clerk must receive a receipt for that hand-delivered order.

8 SECTION 4. (a) Not later than December 1, 2017, the Texas  
9 Supreme Court shall adopt the rules, fees, and orders necessary to  
10 implement the changes in law made by this Act.

11 (b) Except as otherwise provided by this Act, Section  
12 51.808, Government Code, as added by this Act, applies to a court  
13 document filed before, on, or after the effective date of this Act  
14 unless a restriction on court documents filed before that date  
15 would impair a contract entered before that date.

16 SECTION 5. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2017.