

By: Clardy, Price, Thompson of Harris,
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H.B. No. 1258

Substitute the following for H.B. No. 1258:

By: Smithee

C.S.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 after consultation with
5 court clerks.

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

11 (g) A court clerk is not responsible for the management or
12 removal of documents from the state court document database and is
13 not liable for damages resulting from the release of court
14 documents if the clerk in good faith performs the duties as clerk as
15 provided by law and the Texas Rules of Civil Procedure. A clerk
16 shows that the clerk acted in good faith when the clerk shows that a
17 reasonably prudent clerk, under the same or similar circumstances,
18 could have believed that the clerk's conduct was justified based on
19 the information the clerk possessed when the conduct occurred.

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

22 (b) Not later than 10 business days after receipt of
23 relevant criminal history record information contained in an order
24 or a copy of an order under Subsection (a), the department shall
25 seal any criminal history record information maintained by the
26 department that is the subject of the order. The department shall
27 also send all relevant criminal history record information

1 contained in the order or a copy of the order by certified mail,
2 return receipt requested, or secure electronic mail, electronic
3 transmission, or facsimile transmission to the Office of Court
4 Administration of the Texas Judicial System and to all:

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

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

13 (3) private entities that purchase criminal history
14 record information from the department or that otherwise are likely
15 to have criminal history record information that is subject to the
16 order.

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

19 (c) When the order of expunction is final, the clerk of the
20 court shall send a certified copy of the order to the Crime Records
21 Service of the Department of Public Safety, to the Office of Court
22 Administration of the Texas Judicial System, and to each official
23 or agency or other governmental entity of this state or of any
24 political subdivision of this state named in the order. The
25 certified copy of the order must be sent by secure electronic mail,
26 electronic transmission, or facsimile transmission or otherwise by
27 certified mail, return receipt requested. In sending the order to a

1 governmental entity named in the order, the clerk may elect to
2 substitute hand delivery for certified mail under this subsection,
3 but the clerk must receive a receipt for that hand-delivered order.

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

7 (b) Except as otherwise provided by this Act, Section
8 51.808, Government Code, as added by this Act, applies to a court
9 document filed before, on, or after the effective date of this Act
10 unless a restriction on court documents filed before that date
11 would impair a contract entered before that date.

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