

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 17, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB859 by Collier (Relating to the expunction of all records and files related to arrests for certain decriminalized misdemeanor offenses.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined because the misdemeanors that would be decriminalized and the number of offenses is unknown.

The bill would amend the Code of Criminal Procedure to allow persons arrested for a misdemeanor offense to obtain an order of expunction if the offense is subsequently statutorily decriminalized. Under the bill's provisions, a person would be entitled to the expunction of all records and files related to the arrest, if the person has been finally discharged from the sentence in the case or has received a discharge and dismissal for the offense. The person would have to file a verified petition containing certain information with the court that convicted the person or placed the person on deferred adjudication community supervision. The court would have to hold a hearing and make certain findings before granting the expunction. Certain agencies, including law enforcement, would be able to retain the records and files for limited purposes.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result of implementing the provisions of the bill.

Based on information provided by the Department of Public Safety (DPS), the costs from implementing the provisions of the bill are expected to be significant but cannot be determined. DPS indicates that the number of additional staff and resources cannot be estimated as the bill does not specify which crimes would be decriminalized and how many offenses would be eligible.

The bill would apply to an expunction of arrest records and files relating to any misdemeanor offense that committed before, on, or after the effective date of the bill. The bill would take effect September 1, 2021.

Local Government Impact

Cameron County does not anticipate a significant fiscal impact.

The Montgomery County Justice Courts are unable to determine the exact fiscal impact, but anticipate the need for additional staffing.

The County and District Clerks' Association of Texas does not anticipate a significant fiscal impact.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety

LBB Staff: JMc, DKN, MW, BH, AF, NA