

## **BILL ANALYSIS**

S.B. 1667  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that when a person wants to petition for their record to be expunged, the district clerk must send notices of an expunction to various entities such as law enforcement, court officials, and the Department of Public Safety (DPS) and that this process can become costly and time-consuming, especially when physically mailing the notices, as not all agencies receive them electronically. The bill sponsor has also informed the committee that county fees for mailing expunctions vary, and multiple departments within DPS may receive separate notices about the expunction, creating redundancy and further increasing costs. The bill sponsor has further informed the committee that while current law limits the retention period of an expunction order, the expunged criminal history sometimes remains accessible online beyond the applicable retention period, and that as a result, individuals who do not retain their original expunction order often return to the clerk's office after the retention period expires to request a copy, only to find that it is no longer available, requiring them to restart the expunction process. S.B. 1667 seeks to modernize the expunction process by making electronic service free to the filer and requiring state and local agencies to accept electronic service whenever possible, by establishing a standardized \$25 fee per entity for cases where electronic service is not available, and by allowing clerks to retain expunction orders indefinitely, ensuring persons can obtain copies of their expunction records if needed.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1667 amends the Code of Criminal Procedure to revise procedures regarding the content of an ex parte petition for an expunction of arrest records, the notice of a hearing on such a petition, the notice provided following a final expunction order, the disposition of expunged records, and the retention of certain mental health records.

#### **Specialty Court Program Expunction Requirement**

S.B. 1667 requires a person entitled to have all records and files relating to their arrest expunged because of their completion of a veterans treatment court program or a mental health court program to provide the court with the information required in an ex parte petition for expunction. This provision applies only to a petition filed on or after the bill's effective date. A petition filed

before the bill's effective date is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

### **Contents of Petition and Application for Expunction**

S.B. 1667 clarifies that, for purposes of the required contents of an ex parte petition for expunction and an application for expunction based on mistaken identity, the petition or application must include both the physical and email addresses of any applicable agencies and entities required to be listed in the petition or application. The bill prohibits the petition or application from listing any state or local agency more than once or including multiple contacts or addresses for different divisions with respect to the same state or local agency.

S.B. 1667 requires each district clerk to compile and maintain on the clerk's website a list of the following agencies and entities and to include the applicable email addresses for those agencies and entities:

- law enforcement agencies;
- jails or other detention facilities;
- magistrates;
- courts;
- attorneys representing the state;
- correctional facilities;
- central state depositories of criminal records; and
- other officials or agencies or other entities of the state or of any political subdivision of the state.

The bill establishes that a district clerk is not responsible for ensuring that the website contains a complete list of those agencies and entities or that an ex parte petition for expunction contains a complete list of those agencies and entities.

S.B. 1667 establishes that these provisions apply only to a petition or application filed on or after the bill's effective date. A petition or application filed before that date is governed by the law in effect on the date the petition or application was filed, and the former law is continued in effect for that purpose.

### **Notice of Hearing on Ex Parte Petition for Expunction**

S.B. 1667 does the following with respect to the requirement for the court to set a hearing on an ex parte petition for expunction:

- clarifies that the court must set the hearing not earlier than the 30th day following the date the petition is filed; and
- replaces the requirement for the court to give each official, agency, or governmental entity named in the petition reasonable notice of the hearing by certified mail, return receipt requested, or by secure electronic mail, electronic transmission, or facsimile transmission with a requirement for the court to give each official, agency, or other entity listed in the petition, other than central federal depositories of criminal records, a copy of the petition and notice of the hearing through those methods.

The bill establishes that the clerk of the court is not required to transmit a copy of either the petition or notice of hearing to the Office of Court Administration of the Texas Judicial System (OCA).

S.B. 1667 requires a state or local agency with an email address identified under a petition for expunction to accept a copy of the petition or notice of hearing that is provided in an electronic format by the clerk of the court. The bill prohibits the clerk from charging a fee to electronically transmit a copy of the petition or notice of hearing to an official, agency, or other entity for which an email address or other means of electronic transmission is provided in the petition. The bill requires the clerk of the court to charge a fee of \$25 for each official, agency, or other entity that is listed in the petition and that is unable to receive the electronic transmission. The

bill requires the Department of Public Safety (DPS), on receipt of such a copy of a petition or notice of hearing, to notify the appropriate central federal depositories of criminal records listed in the petition.

S.B. 1667 establishes that these provisions apply only to a petition filed on or after the bill's effective date. A petition filed before that date is governed by the law in effect on the date the petition or application was filed, and the former law is continued in effect for that purpose.

### **Retention of Certain Mental Health Records**

S.B. 1667 requires a court to retain federal prohibited person information, as defined by reference to Government Code provisions governing federal firearm reporting, regardless of whether an expunction order is issued with regard to the criminal case in which that information is contained. The bill requires the court to keep the information confidential and subjects the information to release to DPS or the FBI, as applicable, only for purposes of an audit of records relating to federal firearm reporting, or to otherwise verify the inclusion of a person's records in the National Instant Criminal Background Check System. These provisions apply to any records and files in the possession of the clerk of the court on or after the bill's effective date.

### **Notice of Expunction Order**

S.B. 1667 includes OCA among the recipients of a copy of a final expunction order issued under statutory provisions relating to procedures for automatic entry of an expunction order or general procedures for seeking entry of an expunction order that is sent by the clerk of the court and removes the specification that the copy sent to the recipients must be a certified copy.

S.B. 1667 requires a state or local agency with an email address identified under a petition for expunction and an application for expunction based on mistaken identity to accept a copy of an expunction order that is provided in an electronic format by the clerk. The bill prohibits the clerk from charging a fee to electronically transmit a copy of the expunction order to an official or agency or other governmental entity for which an email address or other means of electronic transmission is provided in the applicable petition or application. The bill requires the clerk to charge a fee of \$25 for each official, agency, or other governmental entity that is listed in the applicable petition or application and that is unable to receive the electronic transmission.

S.B. 1667 establishes that these provisions apply only to an expunction order that becomes final on or after the bill's effective date.

### **Inspection and Disposition of Court Records Concerning Expunction**

S.B. 1667 changes the deadline by which the clerk of the court is required to destroy all the files or other records maintained in an area not open to inspection concerning an expunction proceeding from not earlier than the 60th day after the date the expunction order is issued or later than the first anniversary of that date to the first anniversary of the date the order is issued. The bill clarifies that the files required to be destroyed by the clerk are files or records other than the expunction order itself. The bill requires the clerk to maintain the expunction order in a confidential manner and provide a copy only to the person subject to the order after proper presentation of identification, subject to any further order from the court regarding access to the order. These provisions apply to any records and files in the possession of the clerk on or after the bill's effective date.

### **Repealed Provisions**

S.B. 1667 repeals the following provisions:

- the requirement for the clerk of the court, not later than the 30th day before the date on which the clerk destroys files or records concerning an expunction proceeding, to

provide notice to the state's attorney in the expunction proceeding and the prohibition against the clerk, if the state's attorney objects to the destruction not later than the 20th day after receiving notice, from destroying the files or other records until the first anniversary of the date the expunction order is issued or the first business day after that date;

- the requirement for the clerk to certify to the court the destruction of those files or records; and
- provisions establishing required fees for a petitioner seeking expunction of a criminal record.

The repeal of the provisions relating to the destruction of files or other records concerning an expunction proceeding applies to any records and files in the possession of the clerk on or after the bill's effective date. The repeal of the provisions relating to the required expunction fees applies to an expunction order entered on or after the bill's effective date, regardless of whether the underlying arrest occurred before, on, or after that date.

S.B. 1667 repeals the following Code of Criminal Procedure provisions:

- Article 55A.356(d) and (e); and
- Article 102.006.

### **Procedural Provision**

S.B. 1667 establishes that, to the extent of any conflict, the bill prevails over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

### **EFFECTIVE DATE**

September 1, 2025.