

SUBJECT: Fees for the expunction of certain offenses committed by minors

COMMITTEE: Criminal Jurisprudence —favorable, without amendment

VOTE: 6 ayes — Keel, Riddle, Denny, Escobar, Pena, Raymond

0 nays

3 absent — Hodge, P. Moreno, Reyna

SENATE VOTE: On final passage, April 21 — 31-0, Local and Uncontested Calendar

WITNESSES: No public hearing.

BACKGROUND: A minor may apply to justice or municipal court for expunction of any class C offense (other than traffic) upon attaining the age of 17. A conviction for a minor of a tobacco offense under the Health and Safety Code or failure to attend school under the Code of Criminal Procedure may be expunged after the person's 18th birthday. A conviction for a minor of an alcohol offense under the Alcoholic Beverage Code may be expunged after the person's 21st birthday. In order to obtain an expunction, the person must not have more than one conviction for an offense in the above categories while a minor.

Upon request of the petitioner, the court is required to expunge all records relating to the conviction. Currently, justice and municipal courts cannot require the minor to pay a fee for the expunction.

DIGEST: SB 1426 would require petitioners seeking an expunction of a class C offense in justice or municipal court to pay a \$30 fee for each application for an expunction.

The bill would take effect on September 1, 2005.

SUPPORTERS SAY: SB 1426 would require a person filing for an expunction of a conviction for a class C offense committed as a minor to pay a one-time \$30 fee per application to defray the costs of notifying state agencies of the order of expunction. When an expunction is ordered, the court must send a certified

order to each agency with any record of the defendant's conviction. Because justice and municipal courts may not require petitioners to pay court costs associated with the expunction, taxpayers bear the expense. SB 1426 would remove the burden of paying for these expenses from the taxpayer and place it on the responsible party — the offender.

**OPPONENTS
SAY:**

By requiring the person who was convicted to pay the fee, SB 1426 would place an undue burden on indigent persons. While a \$30 cost may be a nominal fee for the court, it could be a significant expense for certain people seeking expunctions for offenses committed as minors.