

## BILL ANALYSIS

Senate Research Center  
79R2862 KEL-D

H.B. 413  
By: Turner (Gallegos)  
Jurisprudence  
5/1/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 413 allows a court to utilize electronic submission (e-mail or facsimile) of expunction and nondisclosure notices of documents to entities named in the petition for expunction, and the electronic submission of an expunction notice to the Crime Records Service of the Department of Public Safety. This legislation allows for a cheaper and more efficient method of sending out notices of expunction to the appropriate entities.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2, Article 55.02, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires the court to set a hearing on a petition for expunction of records or files no sooner than thirty days from the filing of the petition and to give to each official or agency or other entity named in the petition reasonable notice of hearing by certain methods. Makes nonsubstantive changes.

(c-1) Creates subsection from existing text. Authorizes an entity described by Subsection (c) to be represented by the attorney responsible for providing the entity with legal representation in other matters. Makes nonsubstantive changes.

SECTION 2. Amends Sections 3(c) and (d), Article 55.02, Code of Criminal Procedure, as follows:

(c) Requires the clerk of the court when the order of expunction is final, to send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other entity of this state or of any political subdivision of this state designated by the person who is the subject of the order. Requires the certified copy of the order to be sent by secure electronic mail or facsimile transmission, if requested in writing by the person who is the subject of the order, or otherwise by certified mail, return receipt requested. Authorizes the clerk, in sending the order to an entity designated by the person, to elect to substitute hand delivery for certified mail under this subsection, but provides that the clerk is required to receive a receipt for that hand-delivered order. Makes conforming and nonsubstantive changes.

(d) Requires any, rather than all, returned receipts received by the clerk from notices of the hearing and copies of the order to be maintained in the file on the proceedings under this chapter.

SECTION 3. Amends Section 411.081, Government Code, by amending Subsection (g) and adding Subsection (g-1), as follows:

(g) Requires the clerk of the court, when an order of nondisclosure is issued under this subsection, to send to the Crime Records Service of the Department of Public Safety a copy of the order by certain methods.

(g-1) Creates subsection from existing text. Makes conforming changes.

SECTION 4. Provides that the change in law made by this Act to Chapter 55, Code of Criminal Procedure, applies to a person seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

(b) Provides that the change in law made by this Act to Section 411.081, Government Code, applies to information related to a deferred adjudication or similar procedure described by Subsection (f) of that section, regardless of whether the deferred adjudication or procedure is entered before, on, or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2005.