

BILL ANALYSIS

Senate Research Center
79R2862 KEL-D

S.B. 916
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law specifies that when an order of non-disclosure is issued, the clerk of the court is required to send a copy of the order by certified mail, return receipt requested, to the Crime Records Service of the Department of Public Safety. In October of 2004, Harris County averaged 75 applications for non-disclosure per month. To date, 575 applications for non-disclosure have been approved. The number of applications increases each month. Each notice by certified mail costs \$3.80.

As proposed, S.B. 916 amends the Code of Criminal Procedure to permit notices of hearing for an expunction and the final order of expunction to be sent by secure electronic mail or facsimile transmission to agencies and other parties. This bill also permits final orders of non-disclosure to be sent by secure electronic mail or facsimile transmission.

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 the matter 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 the hearing in a certain manner.

(c-1) Authorizes an entity described by Subsection (c) to be represented by the attorney responsible for providing the entity, rather than the agency, with legal representation in other matters.

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

(c) 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 requires that the clerk receive a receipt for that hand-delivered order. Requires the Department of Public Safety (DPS) to notify any central federal depository of criminal records by any means, including secure electronic mail or facsimile transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, take certain actions. Deletes existing text relating to requiring the clerk of the court to send a copy of the expunction by a specified means. Makes conforming changes.

(d) Makes a nonsubstantive change.

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

(g) Requires the clerk of a court, when an order of nondisclosure is issued under this subsection, to send to the Crime Records Service of DPS a copy of the order by a certain means. Makes conforming changes.

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

SECTION 4. (a) Provides that the change in law made by this Act to Chapter 55 (Expunction of Criminal Records), 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 (Application of Subchapter), 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.