

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 166
By: West, Royce
Criminal Justice
3/29/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, 2003, passed S.B. 1477 which allows certain persons who have successfully completed the terms of a deferred adjudication sentence to petition the sentencing court for a nondisclosure order. The legislation has attracted considerable public and legal interest over the past two years.

Shortly after its passage, an unintended consequence of the approved language was discovered. An amendment to Article 55.03, Code of Criminal Procedure, allows the Texas Department of Public Safety to retain and disseminate records that have been duly ordered by the courts to be expunged.

Such disclosure was not intended and is in clear conflict with Article 55.04, Code of Criminal Procedure, which provides that release of records ordered to be expunged is an offense.

C.S.S.B. 166 provides a remedy to the problem posed by the amended article and charges the Department of Public Safety with taking corrective actions retroactive to the bill's effective date.

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 Article 55.03, Code of Criminal Procedure, to delete the exception that for a purpose described by Section 411.083(a), or (b)(1), (2), or (3) (authorizing the use of criminal history record information by the Department of Public Safety (DPS), and release of that information by DPS to certain agencies and to the subject of the criminal history record), Government Code, the release, dissemination, or use of expunged records and files, when the order of expunction is final, is not prohibited. Prohibits the maintenance of expunged records and files for any purpose. Makes a nonsubstantive change.

SECTION 2. Requires DPS, as soon as practicable, to take action as necessary to ensure compliance with Article 55.03, Code of Criminal Procedure, as amended by this Act, including the destruction of certain information.

SECTION 3. Effective date: upon passage or September 1, 2005.