

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 29, 2003

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1477 by West (Relating to restrictions on the disclosure of certain criminal records and to the duty of law enforcement agencies regarding records associated with certain defendants receiving deferred adjudication; providing a civil penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1477, As Passed 2nd House: a positive impact of \$201,226 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$83,423
2005	\$117,803
2006	\$117,803
2007	\$117,803
2008	\$117,803

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain from <i>GENERAL REVENUE FUND 1</i>	Change in Number of State Employees from FY 2003
2004	(\$196,577)	\$280,000	5.0
2005	(\$162,197)	\$280,000	5.0
2006	(\$162,197)	\$280,000	5.0
2007	(\$162,197)	\$280,000	5.0
2008	(\$162,197)	\$280,000	5.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Government Code relating to restrictions on the disclosure of certain criminal records and to the duty of law enforcement agencies regarding records associated with certain defendants receiving deferred adjudication; and, providing a civil penalty. The bill would provide that persons who have been placed under custodial or noncustodial arrest for certain criminal offenses may have their criminal records expunged, providing certain conditions are met. The bill would provide that a person may petition the court that placed a person on deferred adjudication for an order of nondisclosure. The bill would require persons petitioning a court for an order of nondisclosure to pay a \$28 fee, which would be collected by the

court clerk and remitted to the Comptroller on a quarterly basis. The bill would require the Comptroller to deposit the fee in the General Revenue Fund. The bill would require the Department of Public Safety to send a copy of nondisclosure orders by mail or electronic means to all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of the state or of any political subdivisions of the state, and to all central federal depositories of criminal history records. The bill would require the Department of Public Safety to file an annual report with the Legislature regarding the agency's annual costs of handling nondisclosure petitions and orders. The bill would take effect September 1, 2003.

Methodology

The Department of Public Safety would incur additional costs under the provisions of the bill related to expunction and nondisclosure of criminal records. The agency estimates that 400,000 Theft by Check non-custodial arrests would be eligible for expunction under the bill and that approximately 10%, of eligible individuals, or approximately 40,000, will petition for expunction and would result in an additional 4,000 petitions per year. Other non-custodial arrests are not currently reported to the Department will result in a total of 14,000 additional petitions each year, which is more than twice the number the agency currently process each year. This estimate assumes the agency will also need four (4 at \$23,532) additional Expunction Coordinators to process the additional 10,000 nondisclosure and 4,000 expunction petitions and orders that will be received under the bill. This estimate assumes the agency will also need one additional Mail Clerk (1 at to handle records for nondisclosure orders. Total salary, benefits, and other operating costs for the additional 5 staff will cost \$121,242 in fiscal year 2004 and each fiscal year thereafter. Based upon information provided by the Department, this estimate assumes annual mail and postage costs for notifying law enforcement agencies of nondisclosure orders will total \$38,000 per year.

This estimate assumes that 10,000 petitions eligible for nondisclosure would be requested annually. Therefore, the new \$28 fee for nondisclosure petitions would result in \$280,000 in new revenue to the General Revenue Fund each year. [10,000 x \$28 = \$280,000.]

Technology

Professional programming services will cost \$6,000 in fiscal year 2004. Start-up equipment expenses for additional staff will total \$31,335 in fiscal year 2004 and \$2,955 in fiscal year 2005 and each year thereafter.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. To the extent that local courts or criminal justice agencies may handle additional petitions for expunction, orders of nondisclosure, or other records maintenance each year, the possible costs statewide are not anticipated to be significant. Additionally, to the extent that local courts may collect an additional \$28 fee for nondisclosure petitions, to be remitted to the Comptroller, the costs of collection statewide are not anticipated to be significant.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: JK, WK, KG, TB