

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 16, 2013

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1448 by Hinojosa (Relating to orders of nondisclosure issued for records of certain fine-only misdemeanors; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1448, As Introduced: a positive impact of \$6,313,160 through the biennium ending August 31, 2015.

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
2014	\$3,156,580
2015	\$3,156,580
2016	\$3,156,580
2017	\$3,156,580
2018	\$3,156,580

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2014	\$3,156,580
2015	\$3,156,580
2016	\$3,156,580
2017	\$3,156,580
2018	\$3,156,580

Fiscal Analysis

The bill would amend the Government Code, Chapters 103 and 411 to permit persons convicted of non-traffic, non-ordinance fine-only misdemeanors to file a petition for non-disclosure. Persons who have been placed on deferred disposition and who have subsequently received a dismissal in fine-only misdemeanor cases would also be eligible to file a petition for non-disclosure. The

petition requires a \$50 fee to be paid by the defendant, which is remitted to the state.

The bill would apply to petitions for non-disclosure filed on or after the effective date of the bill. The bill would take effect September 1, 2013.

Methodology

Under the provisions of the bill, it is anticipated that there would be a revenue gain to General Revenue of \$6.3 million during the 2014-15 biennium.

According to the Office of Court Administration (OCA), in fiscal year 2012 at the municipal court level there were 373,603 convictions and 55,460 deferred dispositions for non-traffic, non-ordinance Class C misdemeanors that would have been eligible for the non-disclosure order under the provisions of the bill. During the same time period, at the justice court level there were 202,583 convictions and 36,507 deferred dispositions for non-traffic, non-ordinance Class C misdemeanors that would have been eligible for the non-disclosure order under the provisions of the bill. Based on these data, a total of 576,186 convictions and 91,967 deferred dispositions would be eligible. For this analysis, OCA assumes 60 percent of individuals placed on deferred disposition successfully complete it, which total 55,180 dispositions. This estimate provides a total of 631,366 cases in which defendants could seek an order of non-disclosure under this bill ($576,186 + 55,180 = 631,366$). For its analysis, OCA assumes 10 percent of eligible defendants will seek an order of nondisclosure, which totals 63,137 cases. With a \$50 fee charged to defendants seeking a non-disclosure order, 63,137 defendants paying the fee would result in a revenue gain of \$3,156,850 per fiscal year. Under the provisions of the bill, the fees collected would be remitted to the Comptroller of Public Accounts (CPA).

CPA indicates that the impact to state revenue could not be estimated since the number of persons with fine-only misdemeanors eligible to apply for non-disclosure under the provisions of the bill cannot be known.

The Department of Public Safety (DPS) estimates that there would be a cost associated with implementing provisions of the bill. It is anticipated that the costs could be absorbed within current agency resources.

Local Government Impact

OCA reported that the increased caseload due to the bill would have a negative fiscal impact on counties and cities. While the bill does establish a \$50 fee, this revenue would go to the state. Counties could charge existing filing fees for petitions filed in the justice courts, but municipalities would not receive any new revenue under the provisions of the bill.

The City of El Paso Municipal Clerk reported that they do not have the docket space to accommodate the influx of new cases that would result from the bill, and would need to establish a new court to accommodate the new caseload, estimated at \$215,000 annually.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, KKR, ESi, ZS, JJO

