

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 8, 2015**

**TO:** Honorable Jim Murphy, Chair, House Committee on Corrections

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB268** by Miles (Relating to the prompt issuance of an order of nondisclosure for certain defendants; authorizing a fee.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB268, As Introduced: an impact of \$0 through the biennium ending August 31, 2017.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from <i>Statewide Electronic Filing System</i> 5157</b>	<b>Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573</b>
2016	(\$327,940)	(\$1,582,311)
2017	(\$327,940)	(\$1,582,311)
2018	(\$327,940)	(\$1,582,311)
2019	(\$327,940)	(\$1,582,311)
2020	(\$327,940)	(\$1,582,311)

**Fiscal Analysis**

The bill would amend the Government Code to allow issuance of an order of nondisclosure at the time of defendant dismissal and discharge from a term of deferred adjudication community supervision for certain types of misdemeanor offenses. The bill specifies that the defendant is required to pay the \$28 fee for nondisclosure orders imposed under existing statutory provisions,

but is not required to pay other costs generally applicable to civil petition filings. The changes in law would apply only to discharge and dismissal proceedings occurring on or after the bill's effective date.

The bill would take effect September 1, 2015.

### **Methodology**

The Office of Court Administration (OCA) does not have data on the number of applications filed for orders of nondisclosure or in which court these applications were filed. Based upon historical records, OCA estimates that in fiscal year 2014 there were 122,734 cases in which defendants were placed on deferred adjudication. Of this amount, OCA estimates that 25 percent would be ineligible to seek an order of nondisclosure due to committing a criminal offense for which they are not permitted to seek an order of nondisclosure. This reduces the number of eligible defendants seeking an order of nondisclosure to 69,038.

Of the 69,038 eligible, not all will choose to file a petition with OCA estimating that 50 percent of eligible persons will actively seek to obtain an order of nondisclosure, or 34,519 persons. Of the 34,519 persons, OCA estimates that 50 percent, or 17,260, will seek to obtain an order of nondisclosure over the course of one fiscal year with the remainder filing in an indeterminate future year. Finally, OCA estimates that 5 percent of the 17,260 seeking orders of nondisclosure each year would not pay filing fees due to being indigent. Therefore, 16,397 persons each year who are eligible to seek an order of nondisclosure and are not indigent would pay \$28 instead of full filing fees.

Under current law, a petition for an order of nondisclosure with all associated civil filing fees would direct approximately \$155 to the state if filed in a district court and \$145 to the state if filed in a county-level court. The bill would amend these totals to be \$28 in both cases with corresponding state revenue reductions of \$122 from applications filed in district courts and \$112 from applications filed in county-level courts.

The estimated 16,397 eligible persons that are not indigent filing an application for an order of nondisclosure is halved for each court, or approximately 8,199 persons, due to a lack of information on the distribution of nondisclosure applications between district and county-level courts. Estimated revenue loss to the state each year from district courts is \$996,118 and from county-level courts is \$914,133, with total annual revenue losses from both court types of \$1,910,251. This revenue loss would have a negative impact of \$1,582,311 in Other Funds and \$327,940 in General Revenue-Dedicated Statewide Electronic Filing System Account No. 5157 funds.

### **Local Government Impact**

Removing the filing fee associated with a civil petition would reduce revenue to local governments. According to the Office of Court Administration, counties will receive about \$125.50 less in each petition filed under the bill. It is anticipated that the bill would result in an annual loss of \$2,057,824 to local governments statewide.

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

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