

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3579 by Alonzo (Relating to certain criminal record information; authorizing a fee.),
As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB3579, As Engrossed: an impact of \$0 through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

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

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Statewide Electronic Filing System</i>	Probable Savings/(Cost) from <i>Judicial Fund</i>
	5157	573
2016	\$165,150	\$99,090
2017	\$165,150	\$99,090
2018	\$165,150	\$99,090
2019	\$165,150	\$99,090
2020	\$165,150	\$99,090

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to decrease the waiting periods for formal charging instruments to not be filed before a petition for an expunction can be filed and makes clarifying changes that do not change expunction procedures or eligibility.

The bill also expands the situations in which a person can obtain an order of nondisclosure to include certain fine-only misdemeanor cases. This would apply to fine-only misdemeanor cases other than traffic offenses and offenses under a municipal ordinance or county order. A person

that has been convicted of one of these relevant fine-only offenses may petition for an order of nondisclosure if the person has satisfied the judgment. Also, a person that has been placed on deferred disposition may petition for an order of nondisclosure if the person has received a dismissal. The petition may be made after the first anniversary of the conviction or dismissal.

The bill would provide that eligible persons seeking to obtain an order of nondisclosure must file a petition accompanied by regular civil filing fees plus a special \$28 filing fee that is deposited to the credit of the general fund of the municipality or county, as applicable. The petition would be filed with the court that convicted the defendant or placed the defendant on deferred disposition.

The bill would take effect September 1, 2015.

Methodology

The Office of Court Administration (OCA) anticipates that the bill would expand the pool of persons eligible to file a petition for an order of nondisclosure and would result in additional filing fee revenue to the State. The bill would primarily impact courts that hear fine-only misdemeanors, or justice and municipal courts. There are no civil filing fees in municipal courts and so the only fee that would be charged on these orders of nondisclosure would be \$28 for filing a petition for an order of nondisclosure. This fee revenue does not go to the state.

Each civil petition for an order of nondisclosure filed in a justice court would generate revenue directed to the State through two fees. First, a \$10.00 fee to support statewide e-filing that would be credited to the General Revenue Dedicated Statewide Electronic Filing System Account No. 5157 and, second, a \$6.00 fee to support basic civil legal services to the indigent that would be credited to the Judicial Fund. In total, \$16 in additional civil filing fee revenue would be generated for each newly-filed petition for an order of nondisclosure.

In fiscal year 2014, there were 194,598 convictions in justice courts that did not involve violations of traffic laws or county orders and ordinances and 34,137 deferred dispositions in the same types of cases in justice courts. OCA estimates that 75 percent of defendants placed on deferred disposition successfully complete the terms of deferred disposition and have their cases dismissed. Therefore, 25,632 persons placed in deferred disposition in justice courts would be eligible to petition for an order of nondisclosure ($34,137 \times 75$ percent).

Based on this information, there would be 220,230 people eligible to file petitions for orders of nondisclosure ($194,598 + 25,632$). OCA estimates that 10 percent of persons eligible to file petitions for orders of nondisclosure would do so, or an estimated 22,023 persons. Furthermore, OCA estimates that 75 percent of those eligible to file petitions for orders of nondisclosure, and that would do so, would pay filing fees, or 16,515 persons, with the remaining 25 percent claiming indigency and not paying filing fees.

In justice courts, 16,515 new cases multiplied by the \$10 fee for statewide e-filing would yield \$165,150 each year to the General Revenue Dedicated Statewide Electronic Filing System Account No. 5157 and multiplied by the \$6 fee for basic civil legal services for indigents would yield \$99,090 to the Judicial Fund. This analysis assumes cases and revenues would continue in a like manner each year through fiscal year 2020.

Local Government Impact

The Office of Court Administration estimates that there will be a significant positive fiscal impact

to counties and cities. In cities, there will be a \$28 fee collected for an estimated 32,581 cases which would result in \$912,268 in revenue. In counties, there will be a \$28 fee collected for an estimated 16,515 cases which would result in \$462,420 in new revenue.

Also, there is a \$25 basic filing fee in justice courts which stays with the county. Based on the assumption 16,515 cases would be filed, this would result in \$412,875 in new revenue.

Additionally, in some counties, a filing fee of up to \$5 is assessed in justice courts to support alternative dispute resolution programs. In such counties, this would translate into additional revenue.

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

LBB Staff: UP, KJo, MW, GDz