

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 23, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1902 by Perry (relating to the eligibility of criminal defendants for an order of nondisclosure of criminal history record information; authorizing a fee.), **Committee Report 1st House, Substituted**

The bill would have a positive, but indeterminate, fiscal implication to the state because increased civil filing fee revenue from persons previously convicted of certain misdemeanors that would file a petition for an order of nondisclosure is anticipated to exceed revenue losses realized from persons seeking an order of nondisclosure following dismissal and discharge from a term of deferred adjudication community supervision for certain misdemeanor offenses that would only pay the \$28 fee.

The bill would amend the Government Code to allow the issuance of an order of nondisclosure at the time of defendant dismissal and discharge from a term of deferred adjudication community supervision for certain misdemeanor offenses if the person proves to the court they are eligible for an order of nondisclosure and pays a \$28 fine. This would not apply to kidnapping, sexual offenses, assaultive offense, offenses against the family, disorderly conduct, public decency offenses, and weapon offenses.

Additionally, the bill would expand the types of cases in which a defendant is eligible to obtain an order of nondisclosure to include persons who have been convicted of certain misdemeanors and confined if the person seeking the order of nondisclosure had never previously been convicted or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code punishable by fine only.

Persons seeking an order of nondisclosure following dismissal and discharge from a term of deferred adjudication community supervision for certain misdemeanor offenses would not be required to file a petition with the court and, therefore, would not have to pay associated civil filing fees. They would, however, still need to pay the \$28 fee. The Office of Court Administration (OCA) anticipates this would result in a decrease in filing fee revenue to both the state and counties; however the agency is unable to determine the number of persons that would pay the \$28 fine and be issued the order of nondisclosure.

Persons seeking an order of nondisclosure that have been convicted of certain misdemeanors would be considered a new group of persons seeking orders of nondisclosure. These persons would be required to file a petition for an order of nondisclosure for which all associated civil filing fees would apply and the \$28 fee. OCA is unable to estimate the revenue increase that would occur due to the increase in filing fee revenue from this new group of persons seeking orders of nondisclosure.

Based on information provided by OCA, it is assumed that increased revenue from civil filing fees associated with persons previously convicted of certain misdemeanors filing a petition for an order of nondisclosure would exceed revenue losses from persons seeking an order of nondisclosure following dismissal and discharge from a term of deferred adjudication community supervision for certain misdemeanor offenses that would only need to pay the \$28 fee. Therefore, OCA estimates that this bill would have a positive, but indeterminate impact to the state.

Local Government Impact

OCA estimates that the bill would have a positive, but indeterminate, fiscal implication to local governments because the revenue increase from civil filing fees associated with persons previously convicted of certain misdemeanors that file a petition for an order of nondisclosure is anticipated to exceed the revenue loss from persons seeking an order of nondisclosure following dismissal and discharge from a term of deferred adjudication community supervision for certain misdemeanor offenses that would only pay the \$28 fee.

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

LBB Staff: UP, TB, KJo, MW, GDz, KVe