

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3016 by Thompson, Senfronia (relating to the eligibility of a criminal defendant for an order of nondisclosure of criminal history record information.), **Committee Report 2nd House, Substituted**

The bill would have a positive, but indeterminate, fiscal impact to the state due to anticipated increases in civil filing fee revenue associated with an increase in the number of persons filing a petition for an order of nondisclosure; however, the number of additional petitions for an order of nondisclosure cannot be determined.

The bill would amend the Government Code and Code of Criminal Procedure to modify various provisions related to the eligibility of a criminal defendant for an order of nondisclosure of criminal history record information. The bill would allow a defendant convicted of a state jail felony for possession of certain controlled substances to petition the court for an order of nondisclosure and would remove requirements that a person must have served a period of confinement in order to qualify for an order of nondisclosure for these offenses. The bill would establish procedures for first-time driving while intoxicated offenders to petition the court for an order of nondisclosure with additional requirements. The bill would allow defendants convicted of driving while intoxicated if charged as a class B misdemeanor, to petition the court for an order of nondisclosure. The bill would extend the basic requirement for receiving an order of nondisclosure to persons placed on community supervision. The bill would require a judge who determines that it is not in the best interest of justice for a defendant to receive an automatic order of nondisclosure to make an affirmative finding of the fact and file a statement of that affirmative finding in the case file. Finally, the bill would extend the current nondisclosure laws to offenses committed before, on, or after the bill's effective date of September 1, 2017.

The Office of Court Administration (OCA) anticipates that the bill would increase the number of petitioners for an order of nondisclosure; however, the number of individuals who would file a petition cannot be determined. Petitions for an order of nondisclosure require filing fees for all petitioners that are not considered indigent. Therefore, any increase in the number of petitioners would have a positive fiscal impact to the state. OCA anticipates that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

If the federal government determines that the state would be in violation of 49 CFR § 384.226, Prohibition on Masking Convictions, there could be an indeterminate reduction of federal highway funding.

Local Government Impact

According to the OCA, the number of defendants eligible for an order of nondisclosure would increase, however, the agency is unable to determine the number of these defendants that would file a petition for an order of nondisclosure. Any increase in the number of petitions for an order of nondisclosure would result in an increase in civil filing fee revenue. Therefore, the agency anticipates a positive, but indeterminate, fiscal impact to local governments. Tom-Green County reported no fiscal impact under the provisions of the bill.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 601 Department of Transportation, 696
Department of Criminal Justice

LBB Staff: UP, ER, KJo, MW, PBO, FR, JGA, GDz