

BILL ANALYSIS

Senate Research Center
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S.B. 327
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, several low-level, non-violent offenses can be hidden from an individual's record through an order of nondisclosure. This process often costs the individual a fee that can vary from county to county. Although applications for indigence do exist, judges have no discretion in waiving fees for the purpose of justice for those whose punishment, in the form of this permanent record, is disproportionately high compared to their crime, or for those who earn just enough money to surpass the indigence threshold.

S.B. 327 amends Section 411.075, Government Code, to give a judge the discretion to order fees, wholly or partially, be returned to the individual pursuing an order of nondisclosure.

Orders of nondisclosure prohibit public entities from disclosing certain criminal records to most outside agencies and legally free the recipient from disclosing information about their criminal history on applications for employment and other official documents. These orders can be obtained for certain qualifying offenses for which the individual was placed on deferred adjudication. The most populous counties across the state charge fees ranging from \$250 to \$338 for an order of non-disclosure. The number of non-disclosure filings are fairly low, with 146 filings in one of the most populous counties, Tarrant County, in fiscal year 2016. Only twenty-one of these filings qualified as indigent. For those earning just enough money to surpass the indigence threshold, this fee, as well as the associated attorney and court fees, can still be burdensome. Judges should be allowed to determine when a situation demands relief from these fees. S.B. 327 provides our judges with this discretion.

As proposed, S.B. 327 amends current law relating to the authority of a court to return certain fees to a person who is the subject of an order of nondisclosure of criminal history record information.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E-1, Chapter 411, Government Code, by adding Section 411.0746, as follows:

Sec. 411.0746. RETURN OF FEES. Authorizes a court that issues an order of nondisclosure of criminal history record information under this subchapter to order that any fee, or portion of a fee, required to be paid under this subchapter or other law in relation to the order be returned to the person who is the subject of that order.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.