

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

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 8, 2003**

**TO:** Honorable Terry Keel, Chair, House Committee on Criminal Jurisprudence

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB2316** by Dutton (Relating to sentences for certain nonviolent offenders.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2316, As Introduced: a positive impact of \$121,175,657 through the biennium ending August 31, 2005.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$35,096,150
2005	\$86,079,507
2006	\$109,358,896
2007	\$128,714,768
2008	\$143,545,159

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

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1
2004	\$35,096,150
2005	\$86,079,507
2006	\$109,358,896
2007	\$128,714,768
2008	\$143,545,159

**Fiscal Analysis**

The bill would amend the Penal Code by reducing the punishment for many nonviolent offenses. Offenses identified in the bill for penalty reduction include: graffiti, theft, theft of cable services, bail jumping, prostitution with two priors, manufacture or delivery of controlled substances, possession of controlled substances, delivery of marihuana, and possession of marihuana. In most instances the punishment for the offense would be reduced from a state jail felony to a Class A misdemeanor.

The bill would take effect immediately upon enactment if it receives a two-thirds vote in both houses. Otherwise, it would take effect September 1, 2003.

**Methodology**

According to the Criminal Justice Policy Council (CJPC), in fiscal year 2002 15,905 state jail admissions were convicted of the offenses identified in the bill for reduced punishment. Also in fiscal year 2002, 7,001 community supervision (probation) placements were convicted of the offenses

identified in the bill for reduced punishment. The offense with the largest number of offenders admitted to state jails and placed on probation was the offense of possession of a controlled substance of less than one gram, with 7,087 admissions to state jails and 5,650 probation placements in fiscal year 2002.

In order to estimate the future impact of the proposal, the changes in punishment for nonviolent offenses are applied in a simulation model, to (1) state jail admissions that reflect the distribution of offenses, sentence lengths, and time served, and (2) the decrease in the number of people placed on community supervision, due to the bill. Estimated savings are projected for state jail community supervision operating costs.

Estimated savings from a decrease in the state jail population are estimated on the basis of \$32.08 per day, reflecting approximate costs of either operating state facilities or contracting with other entities. Estimated savings from a decrease in offenders on community supervision are estimated on the basis of the felony direct supervision cost of \$1.405 per day.

After five years of cumulative impact, fiscal implications will continue as long as the provisions of the bill are implemented.

### **Local Government Impact**

When an offense is changed from a felony to a misdemeanor, there is a transfer of the burden of confinement of convicted offenders from the State to the counties. Costs to local governments to implement the bill could be significant and would vary by county depending on the number of these types of offenses and judicial discretion in the imposition of jail time and fines.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JK, JO, WK, VDS, GG