

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 19, 2003

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

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2668 by Allen (Relating to the punishment and sentencing of defendants convicted of certain offenses under the Texas Controlled Substances Act.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2668, As Engrossed: a positive impact of \$29,936,068 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	\$9,576,032
2005	\$20,360,036
2006	\$26,241,217
2007	\$30,530,577
2008	\$30,146,728

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2004	\$9,576,032
2005	\$20,360,036
2006	\$26,241,217
2007	\$30,530,577
2008	\$30,146,728

Fiscal Analysis

The bill would amend the Penal Code by requiring mandatory community supervision for first time offenders adjudged guilty of possession of less than one gram of certain controlled substances. Under current law such offenders are eligible for state jail community supervision or incarceration in a state jail facility. For state jail felons identified in the bill, if it is shown on the trial of the offense that the individual previously has been adjudged guilty of a felony, the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. Also for state jail felons identified in the bill, the provision requiring the judge to suspend the imposition of the sentence and place the defendant on supervision would not apply if the defendant possesses more than five abuse units of a Penalty Group #1 controlled substance, or if the individual possessed more than one pound of marihuana.

The bill would also specify requirements of the Drug Demand Reduction Advisory Committee (DDRAC) related to the changes in law made by this bill and the availability of grants and revenue to assist in providing treatment to offenders identified by this bill. The DDRAC is an advisory group to

the he Texas Commission on Alcohol and Drug Abuse (TCADA) and TCADA has determined that the cost of implementing this requirement would not be significant.

Methodology

The Criminal Justice Policy Council (CJPC) estimates that there were 9,130 state jail admissions in fiscal year 2002 for possession of a controlled substance of less than one (1) gram. Of the 9,130 state jail admissions, 4,040 state jail admissions had no other charges/sentences and had no prior TDCJ sentences.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy are applied in simulation models, to (1) the increase in the number of people on community supervision, due to the shift of state jail felons identified in the bill from state jail facilities to community supervision, (2) decreased state jail admissions, and (3) recidivism rates of failure on community supervision/treatment based on the present recidivism rate for drug court participants.

Savings due to the reduction in the incarcerated population by the Department of Criminal Justice are estimated on the basis of \$40 per inmate per day for prison facilities, reflecting approximate costs of either operating facilities or contracting with other entities. Included in the estimated costs of the bill are increased projected community supervision operating costs.

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

Local Government Impact

The bill would shift 4,040 state jail admissions from state jail facilities to community supervision. Community Supervision and Corrections Departments would see a significant increase in their supervision populations. The fiscal note includes the state cost of paying for additional persons on community supervision but local governments would also incur additional costs.

Source Agencies: 410 Criminal Justice Policy Council, 517 Commission on Alcohol and Drug Abuse
LBB Staff: JK, WP, WK, VDS, GG