

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

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

**April 15, 2003**

**TO:** Honorable Ray Allen, Chair, House Committee on Corrections

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

**IN RE: HB2668** by Allen (Relating to corrections programs established for the punishment and supervision of persons convicted of offenses under the Texas Controlled Substance Act involving small amounts of controlled substances; providing penalties. ), **Committee Report 1st House, Substituted**

<b>Estimated Two-year Net Impact to General Revenue Related Funds</b> for HB2668, Committee Report 1st House, Substituted: a positive impact of \$29,936,068 through the biennium ending August 31, 2005.
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**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 <i>GENERAL REVENUE FUND</i> 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 one time of an offense listed in the bill, the individual would be punished by confinement in a state jail facility for any term of not more than one year or less than 180 days. Also 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 two or more times of an offense listed in the bill, the individual would be punished by confinement in a state jail for any term of not more than two years or less than 180 days. In addition, offenses identified by the bill could not be enhanced to a felony of the third degree, which is possible under current law.

The bill would apply to an offense committed after September 1, 2003.

### **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

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