

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION
Revision 1

March 31, 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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2668, As Introduced: a positive impact of \$38,132,032 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	\$7,151,383
2005	\$30,980,649
2006	\$59,788,515
2007	\$72,092,345
2008	\$72,239,526

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from GENERAL REVENUE FUND 1
2004	\$7,151,383
2005	\$30,980,649
2006	\$59,788,515
2007	\$72,092,345
2008	\$72,239,526

Fiscal Analysis

The bill would amend the Government Code and the Health and Safety Code by changing the possession of a controlled substance of less than one gram from a state jail felony to a Class A misdemeanor with mandatory narcotics supervision or confinement.

The bill would apply to any offender sentenced on or after September 1, 2003. Offenders currently convicted of offenses addressed by this bill would receive state jail probation or incarceration. A defendant convicted under the proposed law would be punished by confinement in a county jail for up to one year or supervision by a drug court not to exceed two years. Also under the proposed law, failure to comply with the law would result in revocation to state jail only after unsuccessful completion of a drug court program and after the offender has been sanctioned and treated in a county jail or residential treatment program.

Methodology

According to information from the Criminal Justice Policy Council (CJPC), there were 9,130 offenders admitted to state jails in fiscal year 2002 for possession of a controlled substance of less than one gram. Of the 9,130 offenders admitted to state jail in fiscal year 2002, 2,043 (22%) had other charges requiring a prison sentence or another state jail sentence for a different offense. Therefore, the CJPC assumes that the provisions of this bill would impact 78% of offenders charged with possession of less than one gram of a controlled substance. The offenders impacted by the proposal served an average of 7.4 months in state jails and 2.5 months in county jail. The law currently allows for sentences of up to 2 years for state jail offenders. In addition, if the defendant has previous state jail felony convictions, the punishment is enhanced to a felony of the third degree.

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 decrease in the number of people on state jail community supervision, and (2) decreased state jail admissions that reflect the distribution of offenses, sentence lengths, and time served. Included in the estimated costs savings is projected community supervision operating costs.

Savings from a reduction in incarceration expenditures to 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 state facilities or contracting with other entities.

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

Local Government Impact

Costs to local governments to implement the bill may be significant and would depend on whether a county implements or operates a drug court and on the amount of funds distributed for drug court programs by the Texas Department of Criminal Justice.

The Williamson County Community Supervision and Corrections Department (CSCD) reported that costs to them to implement the bill would be significant because lowering the punishment for the offense increases the number of offenders requiring local supervision. There would also be costs to the department to develop a method of tracking the number of arrests for possession of less than one gram of the identified controlled substances, since the department currently does not track these arrests.

The Montgomery County CSCD reported that implementing the bill would have a negative fiscal impact on CSCDs. They reported that if a commissioner's court chose not to fund a drug court, the local CSCD would be at a disadvantage when applying to TDCJ's community justice assistance division for funding.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice
LBB Staff: JK, JO, WK, VDS, GG, KG