

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

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 4, 2005**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB103** by Van Arsdale (Relating to the punishment for the offense of possession of a gambling device, equipment, or paraphernalia.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB103, As Introduced: a negative impact of (\$390,698) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

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

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2006	(\$60,576)
2007	(\$330,122)
2008	(\$405,533)
2009	(\$421,699)
2010	(\$440,605)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>
2006	(\$60,576)
2007	(\$330,122)
2008	(\$405,533)
2009	(\$421,699)
2010	(\$440,605)

**Fiscal Analysis**

The bill would amend the Penal Code by enhancing the punishment for the offense of possession of a gambling device, equipment, or paraphernalia from a Class A misdemeanor to a state jail felony. The change in law made by this Act would apply only to an offense committed on or after September 1, 2005.

The maximum impact of the bill would occur within four (4) years of adoption due to the lengths of time served in a state jail facility, lengths of time served on felony community supervision, and the length of time served before revocation for those revoked from community supervision.

## **Methodology**

For fiscal year 2004, it is estimated that there were 46 misdemeanor probation placements for the offense of possession of a gambling device, equipment, or paraphernalia. Based on direct court sentencing trends, it is assumed that 24 of the 46 placements would be sentenced directly to a term of incarceration in a state jail facility. It is also assumed that the remaining 22 placements would be placed under felony probation supervision and that offenders placed on felony probation would have a revocation rate of 26% after 3 years of supervision.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy 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 increase in the number of people on felony community supervision. Included in the estimated costs are projected community supervision operating costs.

Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$37.35 per state jail inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for state jail construction. Options available to address the increased demand for state jail capacity that would result from implementation of this bill include construction of new facilities and contracting with counties or private entities.

## **Local Government Impact**

Increasing the penalty for the offense of possession of a gambling device, equipment, or paraphernalia from a Class A misdemeanor to a state jail felony represents a shift in responsibility from local government to the State in dealing with incarceration expenses. The shift would represent a modest increase in demands upon the correctional resources of the State and a modest positive impact to local government would be spread proportionately (based on the frequency of convictions) with many local governments not able to discern a positive impact.

### **Source Agencies:**

**LBB Staff:** JOB, JRO, VDS, GG