

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

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

**May 20, 2005**

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

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

**IN RE: HB164** by Berman (Relating to the civil and criminal consequences of engaging in conduct related to the manufacture of methamphetamine and to the distribution and retail sales of certain chemical substances.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Health and Safety Code by including items used in the manufacture, processing, analyzing, storing, or concealing of methamphetamine in the offense of possession or transport of certain chemicals with intent to manufacture a controlled substance. The number of persons in possession of materials designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine is unknown. Since the bill proposes punishment for elements of criminal behavior for which there is no historical data, determining the impact of the provision on the criminal justice population is not possible. The impact of this provision on the community supervision population or incarcerated population could be significant depending on the frequency of arrests and prosecutions for this behavior.

The bill would also amend the Health and Safety Code by combining the separate offenses related to the illegal possession or transport of anhydrous ammonia and the illegal use of equipment involving anhydrous ammonia into one offense. It is assumed that the number of persons convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

The bill would allow the Department of Family and Protective Services (DFPS) to take possession of a child that is on the premises where there is the manufacture of methamphetamine. DFPS would be able to take possession of a child where the respondent has personal knowledge or information furnished by another indicating that the parent or person who has possession of the child permitted the child to remain on the premises used for the manufacture of methamphetamine. DFPS indicates that current practice is to investigate abuse/neglect reports when a child is found to be at a location used to manufacture methamphetamines. DFPS indicates that there would not be an increase in the number of children placed in foster care as a result of this bill, as the bill requirements are consistent with current practices. DFPS indicates that they would update the IMPACT tracking system to include "removed due to methamphetamine manufacture" to allow tracking of the incidence with which children are removed for this reason.

The bill would also place restrictions on over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and place certain requirements on record-keeping and reporting related to pseudoephedrine.

**Local Government Impact**

Local judges may note an increase in the number of removals in which no alternate options to prevent removal of children could be taken because the manufacture of methamphetamines was involved.

**Source Agencies:** 537 Department of State Health Services, 529 Health and Human Services Commission, 530 Department of Family and Protective Services

**LBB Staff:** JOB, KF, KJG, PP, LW