

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION
Revision 1

March 30, 2005

TO: Honorable Terry Keel, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB1440 by Bohac (Relating to the prosecution and adjudication of the offense of graffiti and to the payment and use of a juvenile delinquency prevention fee.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Article 42.037, Code of Criminal Procedure, and Sections 54.046 and 54.0481, Family Code, to establish procedures for restitution to be made to a person or political subdivision who is the victim of a graffiti offense.

The bill would also amend the Article 102.0171, Code of Criminal Procedure, and Sections 102.041, 102.061 and 102.081, Government Code, to rename the graffiti eradication fee as the juvenile delinquency prevention fee, and increase from \$5 to \$50 the court cost paid by the convicted defendant. Section 54.061, Family Code, would also change to reflect the increase in fee from \$5 to \$50.

Article 102.0171, Code of Criminal Procedure, would be amended to expand the use of the juvenile delinquency prevention fee to include printed educational materials for distribution to primary and secondary school students.

The bill would take effect on September 1, 2005. Provisions of the bill would apply only to an offense or conduct engaged in on or after the effective date.

Local Government Impact

The amount of restitution paid would depend on the extent of damage done by the defendant. Political subdivisions would not see a direct fiscal gain from the restitution since the restitution would not be considered additional revenue, but would be recovered costs.

The current court cost paid is local revenue and is used solely by the political subdivision. The fee increase would generate additional revenue for a political subdivision, the amount of which would depend on the number of graffiti convictions.

Texas Juvenile Probation Commission data shows that 107,337 cases in fiscal year 2003 and 105,669 cases in fiscal 2004 were disposed for graffiti violations, for an average of 106,503 violations per year. Under the current \$5 fee, this generated approximately \$532,515. Assuming that local jurisdictions statewide experience the same average number of cases disposed for graffiti violations for fiscal years 2003 and 2004 (106,503), the local jurisdictions collectively could realize a net revenue gain of \$4,792,635 ([106,503 X \$50 proposed fee] - [\$106,503 X \$5 current fee]) per year.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

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