

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

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

**April 28, 2005**

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

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

**IN RE: HB1539** by Hamric (Relating to the punishment of the offense of trespassing and to requiring certain defendants convicted of that offense to register as sex offenders.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1539, As Introduced: a negative impact of (\$1,567,041) 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	(\$242,964)
2007	(\$1,324,077)
2008	(\$1,626,542)
2009	(\$1,687,376)
2010	(\$1,711,854)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>
2006	(\$242,964)
2007	(\$1,324,077)
2008	(\$1,626,542)
2009	(\$1,687,376)
2010	(\$1,711,854)

**Fiscal Analysis**

The bill would amend the Penal Code relating to the punishment of the offense of trespassing. The bill would enhance the punishment of criminal trespass to a state jail felony if the offense is committed with the intent to arouse or gratify the sexual desire of any person. The bill would also enhance the punishment of criminal trespass from a Class A misdemeanor to a state jail felony if the offense is committed in a habitation or shelter center or the actor carries a deadly weapon on or about his person during the commission of the offense. The bill would also amend the Code of Criminal Procedure by making the offense of trespassing an offense requiring registration as a sex offender if the offense is committed with the intent to arouse or gratify the sexual desire of any person.

## **Methodology**

For fiscal year 2004 there were 369 Class A misdemeanor community supervision placements for the offense of trespassing. The bill would enhance the punishment for Class A misdemeanor trespass offenders, except for those Class A misdemeanor trespass offenders that committed their offense on a Superfund site. For this analysis, it is assumed that 50 percent of the 369 Class A misdemeanor trespassing offenses did not occur on a Superfund site and would therefore be affected by the bill (184 offenders). Based on historical state jail sentencing data, it is assumed that 95 of the offenders each year would be sentenced directly to a term of incarceration in a state jail facility and that 89 offenders each year would be sentenced to a term of community supervision. No data is available on the number of criminal trespass offenses committed with the intent to arouse or gratify sexual desires.

In order to estimate the future impact of the proposal, the changes proposed in the bill are applied in a simulation model using the estimated number of state jail admissions and probation placements identified in the bill, reflecting the distribution of offenses, sentence lengths, and time served for those offenders.

Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$33.78 per inmate per day for a state jail facility, reflecting the 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 for additional capacity.

The provision of the bill that requires registration as a sex offender if the offense of trespass is committed with the intent to arouse or gratify the sexual desire of any person is not anticipated to have a significant fiscal impact on the state.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. To the extent that counties are currently incarcerating offenders whose punishment would be enhanced to a state jail felony under the provisions of the bill, the county would realize a cost savings.

### **Source Agencies:**

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