

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 6, 2005

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

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

IN RE: HB1762 by Phillips (Relating to the punishment for a person with multiple convictions for identical misdemeanor offenses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1762, As Introduced: a negative impact of (\$12,485,366) 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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$1,935,811)
2007	(\$10,549,555)
2008	(\$12,959,439)
2009	(\$13,476,030)
2010	(\$14,080,190)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2006	(\$1,935,811)
2007	(\$10,549,555)
2008	(\$12,959,439)
2009	(\$13,476,030)
2010	(\$14,080,190)

Fiscal Analysis

The bill would amend the Penal Code by enhancing the punishment to the next highest category of punishment, for misdemeanor offenders that have been convicted of the same offense as the instant offense two or more times. The bill would only apply to offenders that commit their offense after September 1, 2005.

Methodology

The additional cost from this bill is based solely on misdemeanor probation placements that would have the punishment for their offenses enhanced to the penalty level of a state jail felony. According to community supervision placement data from the Texas Department of Criminal Justice, 27,259 offenders were placed on community supervision for Class A misdemeanors during fiscal year 2004.

Based on historical sentencing data, it is assumed that 22 percent of misdemeanor offenders have two or more prior convictions. It is further assumed that 25 percent of those offenders with two or more prior convictions would have two or more convictions for an offense the same as the instant offense.

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 enhanced Class A misdemeanor offenders 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, reflecting approximate costs of either operating state jail facilities or contracting with other entities. No costs are included for state jail construction. Options available to address the increased demand for prison capacity that would result from implementation of the bill include construction of new facilities and contracting with counties or private entities for additional capacity.

Local Government Impact

Increasing the penalty for repeat misdemeanor violators from a Class A misdemeanor to a state jail felony represents a shift in responsibility from local government to the State in community supervision expenses and with incarceration expenses. The bill would also allow for the enhancement of punishment for repeat Class C and Class B misdemeanor offenders. The impact for enhanced Class C and Class B misdemeanor offenders could result in increased fines collected by local government or increased time spent in county jails based on the frequency with which the provision of the bill is utilized.

Source Agencies:

LBB Staff: JOB, KJG, VDS, GG