

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

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

IN RE: HB3233 by Uresti (Relating to the administration and operation of community supervision and corrections departments.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to require statutory county court judges trying criminal cases in the county or counties served by a judicial district to participate with the judicial district judges in the establishment of the Community Supervision and Corrections Department (CSCD) and approval of the department's budget and community justice plan. Provisions of the bill would provide judicial immunity to the applicable judges in a suit arising from an act related to the judges' establishment of the CSCD, approval of the budget, appointment of a CSCD director, or an act or failure to act by the CSCD director. The attorney general would be required to defend a statutory county court judge in an action in state or federal court if the cause of action is the result of the judge's CSCD-related responsibilities or the judge requests assistance from the attorney general, provided there is no action pending against the judge in which the attorney general is required to represent the state or another political subdivision.

The revised statute would specify the responsibilities of the CSCD director. In addition, the bill would authorize the State Auditor's Office (SAO) to conduct an audit of a CSCD's accounts, records, receipts, and expenditures. The bill would take effect September 1, 2005.

Under current statute, the judicial district judges alone establish the CSCD, approve the community justice plan, and are authorized to employ CSCD personnel, among other areas of involvement with the department. Current statute also states that the district judges and county court judges trying criminal cases are entitled to participate in management of the CSCD. The proposed change in statute, in addition to requiring that county court judges trying criminal cases participate with the district judges in establishing the CSCD and approving the budget and the community justice plan, would limit management of the CSCD to the director only.

Current statute does not provided immunity to judges for their role related to a CSCD. It is anticipated that any cases that may arise for which the attorney general represents a judge would have an insignificant impact on the attorney general's caseload and therefore could be absorbed using existing resources.

Current statute authorizes audits of CSCD records by the county auditor, Comptroller of Public Accounts, and the Community Justice Assistance Division of the Texas Department of Criminal Justice, but does not include the SAO. According to the SAO, any auditing of the CSCDs would be based on the SAO's on-going risk assessment and audit planning processes, and subject to approval by the Legislative Audit Committee. Therefore, any fiscal impact would be absorbed within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated as a result of the proposed administrative changes.

Source Agencies: 308 State Auditor's Office

LBB Staff: JOB, KJG, DLBa