

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB759 by Dutton (Relating to the penalty for possession of a small amount of certain controlled substances.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB759, As Introduced: a positive impact of \$62,288,884 through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$1,942,033
2009	\$60,346,851
2010	\$79,451,501
2011	\$83,260,562
2012	\$86,028,724

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1
2008	\$1,942,033
2009	\$60,346,851
2010	\$79,451,501
2011	\$83,260,562
2012	\$86,028,724

Fiscal Analysis

The bill would amend the Health and Safety Code by reducing the punishment for possession of less than one gram of controlled substances in Penalty Group 1 and Penalty Group 2 from a state jail felony to a Class A Misdemeanor.

The bill would take effect on September 1, 2007 and apply to offenses committed on or after that date.

Methodology

Penalty Group 1 controlled substances include, but are not limited to, opiates and opium derivatives (e.g., heroin), cocaine, and methamphetamines. Penalty Group 2 controlled substances include, but are not limited to, hallucinogenic substances (e.g., Mescaline and Tetrahydrocannabinols other than marijuana). In fiscal year 2006, 8,745 state jail admissions were for possession of less than one gram of Penalty Group 1 controlled substances and 4 state jail admissions were for possession of less than

one gram of Penalty Group 2 controlled substances. There were 9,850 offenders placed on felony community supervision for possession of less than one gram of Penalty Group 1 controlled substances and 312 offenders placed on felony community supervision for possession of less than one gram of Penalty Group 2 controlled substances.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy are applied in a simulation model, to (1) state jail admissions that reflect the distribution of offenses, sentence lengths, and time served, and (2) the decrease in the number of people added to community supervision. Included in the estimated savings are projected community supervision operating savings.

Incarceration savings by the Department of Criminal Justice are estimated on the basis of \$36.53 per state jail inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities.

Local Government Impact

Conviction on a Class A misdemeanor is punishable by a fine not to exceed \$4,000; confinement in jail for a term not to exceed one year; or both the fine and the confinement. Implementing the provisions of the bill could cause approximately 20,000 more offenders to be remanded to local jails rather than state jails. Costs to local entities would depend on how many offenders are fined, jailed, both fined and jailed, or put on community supervision. If an offender is jailed, the average cost per day per inmate housed in a county jail varies by county. Based on a sampling of county jails contacted by the Texas Commission on Jail Standards in November 2006, average cost per day per inmate housed in a county jail ranges from \$25 to \$61.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ES, KJG, GG