

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 27, 2007**

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

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

**IN RE: HB1875** by Hochberg (Relating to the operation and funding of drug court programs.), **As Introduced**

**No fiscal implication to the State is anticipated.**

This bill would implement recommendations 1, 2 and 3 in the "Rehabilitate DWI Offenders and Conserve Prison Capacity by Creating More DWI Courts," report from the Legislative Budget Board's publication, *Texas State Government Effectiveness and Efficiency: Selected Issues and Recommendations*.

Section 1 of the bill would amend Chapter 469 of the Health and Safety Code to create Section 469.005 to statutorily recognize DWI courts and apply the existing requirements for drug courts to DWI courts. Some exceptions to the requirements would apply. For example, counties with populations over 550,000 would have the option of accepting DWI offenders in their existing drug court programs or create a separate DWI court. The DWI court programs established under this section would be required to have at least 50 participants during the first four months of operation. As provided in Section 1 of the bill, while the creation of DWI courts would be contingent upon funding, all operating drug courts in counties without a separate DWI court would be required to serve DWI offenders in the drug court program.

As a way to encourage participation in the DWI court program, this bill would also amend Chapter 469 of the Health and Safety Code to create Section 469.008 to give judges or magistrates administering the program the option to suspend any requirements as a condition of community supervision as it relates to the ignition interlock device and community service hours. The bill provides that upon successful completion of the DWI court program, a judge or magistrate may excuse a participant from any conditions of community supervision as they relate to the ignition interlock device and community service hours.

The bill would amend Chapter 469 of the Health and Safety Code to create Section 469.009 to permit a presiding judge or magistrate of a drug court to order an occupational license as a condition of the program. An occupational license allows a participant to drive to and from designated points like work, court, and treatment meetings. Currently, under Section 521.242 of the Transportation Code, a defendant must file a separate civil petition for an occupational driver's license. Adding this provision to the Health and Safety Code would serve as an incentive to the participant who needs immediate access to a vehicle to comply with regular court appearances and drug testing, and decrease the cost and time involved in obtaining the license.

Section 1 of the bill provides certain provisions for DWI offenders, including those served in drug courts, that could place Texas into noncompliance with the federal DWI repeat offender provisions contained in 23 USC Section 164. If Texas were found to be in noncompliance, a transfer of approximately \$42.6 million for fiscal year 2008 and \$43.3 for fiscal year 2009 would be made from federal highway funds to be used solely on alcohol impaired driving countermeasures. Although the state would not lose the funding, it would no longer be available for the maintenance of existing highways or for mobility related construction.

Section 2 of the bill would require a county court, in a county with an established drug court, to assess a personal bond fee. Currently, courts are required to assess a personal bond fee of \$20 or 3 percent, whichever is greater, on the amount of bail fixed for an accused to defray the costs of the personal bond office. This bill amends Article 17.42 of the Code of Criminal Procedure to increase the personal bond fee assessed to \$20, or 6 percent, whichever is greater, on the bail fixed for the accused with one-half of the personal bond fee collected to fund drug court programs. The other half of the revenue would go to defray the costs of the personal bond office as currently set in statute. Courts in a county with no drug courts would not be affected by this recommendation.

This bill could potentially result in a cost savings to the State if more offenders are diverted from prison or state jail as a result of participating in DWI courts.

### **Local Government Impact**

The bill would require counties with populations greater than 550,000, currently nine of them, to create separate DWI courts or to expand their existing drug court programs to include DWI offenders. The option to operate as a dual drug/DWI court would allow counties with established drug courts to draw upon their existing court infrastructure to divert these offenders.

The revenue that can be generated by a county from an increase in the personal bond fee varies by the number of personal bonds issued per county and the amount of the personal bond. If a county issues 500 personal bonds per year at an average of \$1,000 each, a 6 percent fee could generate \$30,000 per county, \$15,000 of which would go to help fund drug courts. Larger counties are expected to generate more revenue. Harris County reports that the increased fee could generate an additional \$50,000 per year.

Montgomery County reports that implementing the provisions of the bill would require two new Court Diversion Officer positions at a cost \$304,924 in fiscal year 2008. This cost includes other operating expenses including treatment and office supplies.

Dallas County reports that assigning judicial resources to the drug court program would cost \$350,000 per year through fiscal year 2012.

Harris County reports that the cost of establishing a separate DWI court would be \$1.88 million annually. This estimate is based on their operating budget for their drug court that serves over 200 participants. They report that this would be only slightly offset by increased personal bond fees.

This newly generated revenue would be in addition to the current biennial \$1.5 million drug court funding available through the Criminal Justice Division of the Governor's Office, and grants from the Community Justice Assistance Division in the Texas Department of Criminal Justice.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 308 State Auditor's Office, 601 Department of Transportation, 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, JI, KJG, YD