

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

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

**May 24, 2007**

**TO:** Honorable Tom Craddick, Speaker of the House, House of Representatives

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

**IN RE: HB3200** by Madden (Relating to funding for community supervision and corrections departments.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3200, As Passed 2nd House: a positive impact of \$25,354,345 through the biennium ending August 31, 2009.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2008	\$711,209
2009	\$24,643,136
2010	\$49,471,692
2011	\$65,387,718
2012	\$77,585,565

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>
2008	\$711,209
2009	\$24,643,136
2010	\$49,471,692
2011	\$65,387,718
2012	\$77,585,565

**Fiscal Analysis**

The bill would amend the Government Code by establishing a new funding formula for basic supervision probation for the community justice assistance division (CJAD) of the Texas Department of Criminal Justice (TDCJ). The bill would provide for developing a funding formula calculated based on a per diem amount for each offender on felony probation (as opposed to funding direct supervision felony probationers), funding for felons being supervised in pre-trial diversions programs, and misdemeanor defendants placed on community supervision funding for no longer than 182 days of supervision (limited to \$.70 per day). The bill further specifies in establishing the per capita funding formula, the CJAD would consider the amounts appropriated in the General Appropriations Act for basic supervision to be sufficient to provide basic supervision for each fiscal year in the biennium. Establishing the funding formula would include the following weights which only apply to felony probationers: 1) higher per capita rates for those defendants supervised by a department who are serving the early years of a term of community supervision than for those defendants who were serving the end of the term of community supervision; 2) penalties in per capital funding with respect to each defendant supervised by a department whose community supervision is revoked due to a technical violation of an applicable condition of community supervision; and 3) awards in per capita funding with respect to each felony defendant supervised by a department who is discharged following an early termination of community

supervision.

The bill would authorize the Community Justice Assistance Division of the Department of Criminal Justice to adopt a policy limiting the percentage of benefit or loss a department could realize as a result of the operation of the per capita funding formula established under this measure. The bill amends the Code of Criminal Procedure by providing that a judge granting community supervision shall fix a fee to be paid by the defendant to the court of original jurisdiction, or for intrastate transfers described by Section 10 (b) of this article, to the court where the defendant's case is transferred.

The bill would amend the Hearings and Sanctions Subchapter of the Government Code by specifying conditions under which a parole panel may require a person to remain under custodial supervision each time the board modifies a person's parole or mandatory supervision. The bill would set a term of not less than 180 days or more than one year for a person with a modified parole or mandatory supervision term modified by a parole panel and required to serve a term of confinement and treatment in a substance abuse treatment facility. The bill also prohibits a parole panel from revoking a person's parole or mandatory supervision for an administrative violation of a condition of release, or for an offense punishable as a misdemeanor committed after release. A parole panel may revoke a person's parole or mandatory supervision if the person has failed to report to the parole officer supervising the person for a period of at least one year, is arrested outside of the state on an issued warrant, or has previously committed an administrative violation and has been confined in certain substance abuse treatment facilities, or intermediate sanction facilities.

The bill would amend the Hearings and Sanctions Subchapter of the Government Code by specifying a term of not less than 60 days or more than one year for a person who has violated the terms of their parole or mandatory supervision and is required by a parole panel to remain under custodial supervision in an intermediate sanction facility. The bill would allow a parole panel to require a person to remain under custodial supervision each time the panel modifies the person's parole or mandatory supervision. Sex offenders or those under super-intensive supervision parole would be ineligible for diversion from prison under the provisions of this bill.

## **Methodology**

The provisions of the bill providing for a new funding formula would be established by January 1, 2008 and implemented for the state fiscal year beginning in September 1, 2008. CJAD has estimated the fiscal impact on the funding allocation to the community supervision and corrections departments (CSCDs) could be approximately \$10.0 million in fiscal year 2008 and \$11.4 million in fiscal year 2009. This calculation includes the amount of funding necessary to protect CSCDs from potential financial losses as a result of the bill, \$4.2 million in each fiscal year. The impact to account for the projected loss of offender fees is estimated to be \$5.8 million in fiscal year 2008 and \$7.2 million in fiscal year 2009. However, the bill provides the board may adopt a policy limiting loss or gain as a result of the operation of the new formula. It is unknown how much loss or gain the board would allow as a result of the new formula, therefore, at this time, the impact of the provisions of the bill related to the new funding formula to CSCDs is unknown.

Regarding the provisions of the bill related to specifying conditions under which a parole panel may require a person to remain under custodial supervision each time the board modifies a person's parole supervision, in fiscal year 2006, 2,238 admissions to TDCJ were for technical revocations of terms of parole or mandatory supervision. Also, 1,882 admissions to TDCJ were for new misdemeanor offenses resulting in revocations of parole or mandatory supervision would be ineligible for revocation under the provisions of this bill. TDCJ estimates in fiscal year 2006, 500 technical revocations to prison were individuals failing to report to their supervising parole officer for a period of at least one year. Savings would result from the bill as a result of parole and mandatory supervision violators being diverted from prison to substance abuse treatment facilities or intermediate sanction facilities rather than prison. After excluding sex offenders and offenders on super-intensive supervision parole prior to revocation, and after excluding those defendants with an administrative violation that have failed to report to the supervision parole officer for a period of at least one year, there are 3,137 parole technical or misdemeanor violators eligible for diversion. With an average length of stay of three months, 780 intermediate sanction facility beds would accommodate approximately 3,137 persons with technical or misdemeanor violations of parole or mandatory supervision. Conversely, 3,137 persons revoked to prison for technical or misdemeanor violations of parole or mandatory supervision are likely to require 6,274 prison beds assuming an average length of stay of two years.

In order to estimate the future impact of the proposal, the changes proposed for release policy are applied in simulation models, to (1) a prison population that reflects the distribution of offenses, sentence lengths, and time served, and (2) a parole population that reflects the increase in the number of people on parole supervision, due to reduced parole revocations for technical violations of terms of supervision. Included in the net estimated savings of the proposal is additional projected parole operating costs.

Savings for the cost of incarceration by the Department of Criminal Justice are estimated on the basis of \$40 per inmate per day for prison reflecting approximate costs of either operating state facilities or contracting with other entities. Additional parole supervision costs of \$3.51 per parolee per day are included for the cost of supervising additional parolees as a result of the bill. Finally, the cost of operating an additional 780 intermediate sanction facility beds at \$35.27 per day per bed are included, reflecting the approximate costs of either operating facilities or contracting with other entities.

### **Local Government Impact**

The bill would establish a new funding formula for basic supervision probation and this analysis indicates the amount of state funding necessary to protect Community Supervision and Corrections Departments from potential financial losses as a result of the bill. A potential result of the changes in funding formula provisions may be a decrease in community supervision populations, depending on the number of defendants with supervision terminated early. Local governments would experience a decrease in revenue through lowered court costs and lowered probation fees to community supervision and corrections departments. The impact to individual localities would vary considerably due to court costs, probation fees, and supervision costs which vary by locality.

Under existing statute, in addition to funding received from the state for each felony offender on direct community supervision, the court may impose a supervision fee on the offender to help offset the costs of their supervision. Collection of the supervision fee and other fees imposed on offenders may be spread over the length of their community supervision; a shorter period of supervision could reduce the collection rate.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, GG, SDO