

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 27, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
 Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: SB909 by Whitmire (Relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles.),
Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for SB909, Conference Committee Report: a negative impact of (\$5,335,672) 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	(\$2,510,038)
2009	(\$2,825,634)
2010	(\$3,141,230)
2011	(\$3,456,826)
2012	(\$3,772,422)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$2,510,038)
2009	(\$2,825,634)
2010	(\$3,141,230)
2011	(\$3,456,826)
2012	(\$3,772,422)

Fiscal Year	Change in Number of State Employees from FY 2007
2008	11.0
2009	11.0
2010	11.0
2011	11.0
2012	11.0

Fiscal Analysis

The Texas Department of Criminal Justice (TDCJ) and the Correctional Managed Health Care

Committee (the Committee) are subject to the Sunset Act and will be abolished on September 1, 2007 unless continued by the Legislature. The Board of Pardons and Paroles (Parole Board) is not subject to abolishment, but is subject to Sunset review at the same time as TDCJ. This bill contains the following Sunset Commission recommendations regarding TDCJ, the Parole Board, and the Committee.

- Requires a county transferring a defendant to the TDCJ to deliver to an officer designated by TDCJ a copy of the defendant's Texas Uniform Health Status Update Form.
- Authorizes judges to permit the early release to intensive supervision for state jail inmates who pose no risk to public safety due to their medical conditions.
- Amends the Code of Criminal Procedure relating to the removal of records for inmates confined in a correctional facility under contract with TDCJ, or in a county jail in lieu of being confined in a TDCJ facility.
- Amends the Government Code relating to the hiring of community supervision department directors.
- Amends the Government Code to rename the heading to Subtitle C, Title 3 to read Legislative Agencies and Oversight Committees.
- Establishes a six-member Criminal Justice Legislative Oversight Committee.
- Continues TDCJ until 2011 to provide for the next Sunset review.
- Defines compliance with sunset recommendations.
- Requires TDCJ to use a dynamic risk assessment tool to assign a risk level to an inmate serving a sentence for a sexual offense before their sentence is discharged.
- Prohibits the department from prohibiting a parole panel to require an inmate to participate in and complete a treatment program operated by the department before the inmate is released on parole.
- Authorizes scheduled meetings between management and employees on department policies and issues.
- Allows the department to allow employees who are granted law enforcement authority to assist municipal, county, state or federal law enforcement.
- Amends the conditions under which private sector industries program operates.
- Requires screening for and education concerning fetal alcohol exposure during pregnancy.
- Establishes that the Correctional Managed Health Care Committee (CMHCC) is subject to review under the Texas Sunset Act during the same period in which TDCJ is reviewed.
- Requires various health institutions to comply with and implement the management action recommendations of the Sunset Advisory Commission and report requested information.
- Specifies the prerequisites of the presiding officer of Managed Healthcare.
- Requires CMHCC to develop statewide policies for the delivery of correctional health care.
- Defines the requirements of quality of care monitoring by TDCJ and health care providers.
- Requires the development of appropriate alternative dispute resolution procedures.
- Expands conflict of interest provisions concerning financial and personal interests, and previous employment restrictions to parole commissioners.
- Requires the development and implementation of policies that provide the public with opportunities to speak on issues to the Board of Pardons and Paroles.
- Requires the Board of Pardons and Paroles to prepare and submit a legislative appropriations request that is separate from TDCJ. The budget structure of the Board of Pardons and Paroles shall be maintained separately from TDCJ.
- Requires the Board of Pardons and Paroles to implement appropriate technological solutions maintain a system on complaints filed with the board, negotiate rulemaking and alternative dispute resolution.
- Requires the executive director of TDCJ to establish a career ladder for parole officers.
- Requires the Parole Board to allow the nearest relative by consanguinity to represent a deceased victim in the parole review process when no spouse, parent, child, or sibling can participate.
- Requires the Parole Board to annually review and update the parole guidelines, and report to the Legislature its efforts to meet them. Requires members who deviate from the parole guidelines to provide specific reasons explaining the deviation.
- Requires TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders from parole and mandatory supervision early.
- Provides for paid compensation for overtime accrued by a TDCJ employee.

- Requires the Texas Correctional Office on Offenders with Medical or Mental Impairments to identify and recommend state jail inmates eligible for early release to intensive supervision.
- Requires the Council of Sex Offender Treatment to develop or adopt a dynamic risk assessment tool used in determining the likelihood that a person confined in a penal institution, who will be subject to Chapter 62, will commit an offense described by Article 62.001(5) Code of Criminal Procedure (sex-related offense) after release.
- Prohibits TDCJ from exempting any employee from a licensing requirement imposed by Section 110.302 Occupations Code (sex offender treatment provider license).
- Updates department/commission titles in the Transportation Code regarding exemption from inscription requirement for certain state-owned motor vehicles.
- Requires TDCJ to study using GPS tracking and electronic monitoring devices for people on parole and report the findings to the Legislature.
- Updates provisions relating to bringing arrested persons before the proper court within specified timeframes.
- Provides that a determination by the court of whether it proceeds with an adjudication of guilt on the original charge is reviewable in the same manner as a revocation hearing conducted under Section 21, Article 42.12, Code of Criminal Procedures.
- Authorizes judges, for certain state jail felony offenses, to suspend the imposition of a sentence and place the defendant on community supervision or order the sentence to be executed if the conviction resulted from an adjudication of guilt of a defendant previously placed on deferred adjudication community supervision for the offense.
- Permits a judge to order a defendant to make a specified donation to a nonprofit food bank or food pantry in lieu of requiring the defendant to work a specified number of hours at a community service project.
- Requires probation fees to follow defendants if they are transferred to different court jurisdictions.
- Establishes certain requirements for conducting taste tests and awarding commissary bids within TDCJ.
- Authorizes TDCJ to provide for the practice of bundling products into categories to ensure savings through bulk purchasing, discounts for advance invoice payments, and online ordering.
- Requires TDCJ, in awarding a bid for food goods for a cafeteria in a TDCJ facility, to give preference to contractors who provide foods of higher nutritional value.
- Requires TDCJ to adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse.
- Requires TDCJ to conduct a study regarding certain types of inmates.
- Requires TDCJ to conduct a feasibility study of relocating the Central Prison Unit and the adjoining prison housing units from its current location in Sugar Land, Texas to a more compatible location.
- Specifies that who otherwise meets eligibility requirements for the medical assistance program is not ineligible for the program solely on the basis of the conviction or adjudication for which the inmate was sentenced to confinement.

Methodology

The fiscal impact of SECTION 2 of the bill on offender population would depend on the number of state jail inmates who pose no risk to public safety due to medical conditions released early to intensive supervision probation. Based on the medical costs associated with state jail inmates previously released on medically recommended intensive supervision, and assuming only 5 percent of all medically-eligible inmates would be released, the result would be approximately \$1,063,479 million in savings to the State. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) is required to work with the Committee to identify eligible state jail inmates and prepare a continuity of care plan for them.

SECTION 13 of the bill would establish a six-member, Criminal Justice Legislative Oversight Committee. The bill authorizes the Committee to hire staff and contract with universities or other suitable entities. Funding to support the operation of the committee shall be provided from funds appropriated to the Texas Legislative Council. The cost of Committee operation would depend on how the Committee structures its staff support which cannot be precisely estimated.

SECTION 16 and 47 of the bill amends the Government Code and requires TDCJ to use a dynamic risk assessment tool to assign a risk level to an inmate before being discharged or is released on parole who has been serving a sentence for a sexual offense. Currently, the Department of Criminal Justice utilizes the Static-99 risk assessment tool at no cost to the State. Estimating the fiscal impact of using the dynamic risk assessment tool would depend on the Council on Sex Offender Treatment developing or adopting a new assessment tool. Costs that may be associated with the dynamic assessment tool could be a polygraph exam (\$150 per test) or penile plethysmograph (\$250-\$350 per test) which would result in a fiscal impact to TDCJ, based on the number of offenders required to be tested. If the intent of the bill includes assessing offenders who are discharged from community supervision, the number of offenders impacted would be higher.

SECTIONS 24 and 32 of the bill would require TDCJ to screen all women that enter the prison system and state jails each year and provide brief interventions to those at risk of an alcohol-exposed pregnancy, which would result in a minimal cost of about \$21,000. Requires TDCJ to provide all female inmates an educational brochure on the risks and dangers of alcohol consumption during pregnancy. The brochure is available through the Texas Office for Prevention of Developmental Disabilities. The bill also requires TDCJ to provide correctional health care information to offenders.

SECTIONS 26 of the bill would require that TDCJ, the Committee, UTMB, and Texas Tech shall, on a specific date, report to the Sunset Advisory Commission the information required relative to the implementation of the management action recommendations. This codifies an existing practice and requirement of the Sunset Advisory Commission review process.

SECTION 29 of the bill defines the requirements for the quality of care monitoring by the TDCJ and health care providers. The Department of Criminal Justice Health Services Division would monitor the quality of care of the health care providers. TDCJ has estimated the cost to be approximately \$845,009 annually (includes 11 new FTE's salaries \$795,009 and operating expenses of \$50,000).

SECTION 35 of the bill would require the Board of Pardons and Paroles to prepare and submit a legislative appropriations request that is separate from TDCJ. Also, the budget structure of the Board of Pardons and Paroles shall be maintained separately from TDCJ. The bill does not provide for associated start up costs required to establish a separate agency such as office space rental, information resources, and other necessary costs.

SECTION 37 of the bill would require TDCJ to establish a career ladder for parole officers. TDCJ has estimated the fiscal impact to be approximately \$5.7 million for fiscal year 2008 and 2009. The estimate includes salary expenditures for all parole positions to the appropriate pay levels. The incremental pay raise would cost approximately \$3.0 million in the subsequent years.

SECTIONS 39 and 40 of the bill would require the Parole Board to annually review and update the parole guidelines, and authorizes the Parole Board to enlist experts, as needed, for the review. The Parole Board should conduct the annual review at one of its regular board meetings which would not result in any additional travel or meeting costs. The bill also requires parole panel members who depart from the guidelines to provide specific reasons explaining the deviation, which would not have a fiscal impact. Parole panel members currently use standard denial explanations when denying parole. These denials could be expanded to include reasons for any deviation from the parole guidelines without any additional cost. Requiring the Parole Board to review parole guidelines and explain any deviations should encourage compliance with parole guidelines and could affect voting patterns, resulting in more releases and additional savings to the State.

SECTIONS 36 of the bill would amend the Government Code by applying standard Sunset language requiring the agencies to make effective use of technology; encouraging the use of negotiated rulemaking and alternative dispute resolution; and maintaining complaint information. These standards are applied to all agencies under Sunset review.

The Texas Department of Criminal Justice has determined that the cost of implementing the other provisions and the amendments of this bill would not be significant.

The Correctional Managed Health Care Committee has determined that the costs to implement the

provisions in the bill are not anticipated to be significant and could be absorbed with current resources.

Unless otherwise noted, all costs associated with implementation of the bill have been estimated upon the Act becoming effective on September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 696 Department of Criminal Justice

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