

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 1, 2007

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

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.), **As Engrossed**

The bill would provide for an estimated savings of \$1,063,479 annually, but would also result in a cost to the state of approximately \$966,009 per year. Therefore, the net fiscal impact of the bill is not expected to be significant.

Bill Summary

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.

- Establishes a six-member Criminal Justice Legislative Oversight Committee.
- Requires the Parole Board to annually review and update the parole guidelines, and report to the Legislature its efforts to meet them.
- Requires parole panel members who deviate from the parole guidelines to provide specific reasons explaining the deviation.
- Requires community supervision and corrections departments (CSCDs) to identify and recommend probationers appropriate for early termination.
- Authorizes TDCJ to adjust funding methods to minimize the loss of funds to community supervision and corrections departments resulting from early termination of probationers.
- 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.
- 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.
- Requires the Texas Correctional Office on Offenders with Medical or Mental Impairments to identify and recommend state jail inmates eligible for early medical release to intensive supervision.
- Expands conflict of interest provisions concerning financial and personal interests, and previous employment restrictions to parole commissioners.
- 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 TDCJ to provide information about the health risks of drinking alcohol during pregnancy to women offenders, and to identify and provide interventions to women offenders at risk of having an alcohol-exposed pregnancy.
- Requires TDCJ to study using GPS tracking and electronic monitoring devices for people on parole, and report the findings to the Legislature.
- Continues TDCJ until 2011 to provide for the next Sunset review.
- Requires the Committee and TDCJ to make information about offender health care available to the public and offenders, including healthcare contracts, formulary, policies and procedures,

quality assurance data, and grievance information.

- Continues the Correctional Managed Health Care Committee (CMHC) by removing its Sunset date, but specifies that its role and responsibilities are subject to review during TDCJ's Sunset review and specifies the date that CMHC, The University of Texas Medical Branch at Galveston (UTMB), and Texas Tech University Health Sciences Center (Texas Tech) shall report to Sunset the information required relative to the implementation of the management action recommendations.
- Updates the Committee's statutory direction to reflect its current functions, including maintaining the contracts for offender healthcare services, and identifying and addressing long-term needs of the system.
- Requires the Chair of the Committee to be a public physician member.
- Removes limitations on TDCJ to allow it to monitor the quality of offender health care.

The bill takes effect immediately if it receives a two-thirds vote of all members. Otherwise, the effective date of this bill is September 1, 2007.

Fiscal Impact

SECTIONS 1 and 24 of the bill would amend the Code of Criminal Procedure and Health and Safety Code, respectively to authorize judges to permit the early release of state jail inmates who pose no risk to public safety due to their medical conditions, which would result in a savings to the General Revenue Fund. When released, instead of the state paying for the offenders' medical costs, an offender may be eligible for federal benefits, including Social Security Disability Insurance, Supplemental Security Income, Medicaid, Medicare, and veterans' benefits. The savings would depend on the number of offenders eligible for release and the number of those who would be approved for release. However, 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 State would benefit from \$1,063,479 in cost avoidance.

The bill would require the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to work with the Committee to identify these eligible state jail inmates and prepare a continuity of care plan for them. TCOOMMI currently facilitates the early medical release of state jail inmates by sending informal release requests and supporting documentation, including continuity of care plans, to local judges. As such, this provision codifies TCOOMMI's current functions and will not increase its workload therefore no fiscal impact is anticipated.

SECTIONS 2, 23, 26, and 37 would amend the Government Code by requiring the community supervision and corrections departments (CSCDs) to identify and recommend probationers appropriate for early termination. District judges would determine which probationers would receive early terminated from probation. Reducing the number of probationers through early termination would reduce both the amount of funding the departments receive from TDCJ's current community supervision funding formulas, and from offender fee payments. The loss of funds would depend on the number of probationers who judges may release early. Additionally, the bill authorizes TDCJ to adjust funding methods to CSCDs, which would offset any potential loss of funding resulting from early terminations. The overall impact of these provisions to the State and local departments should be minimal.

SECTIONS 3, 4, and 27 would amend the Government Code by establishing a six-member, Criminal Justice Legislative Oversight Committee. Although the committee could use staff and/or funding from the members' offices, which would not result in a fiscal impact, the bill authorizes the committee to hire staff and contract with universities or other suitable entities which could have a minimal cost to the State. However, the cost would depend on how the Committee structures its staff support. House Bill 898 by McClendon contains this same language and no significant fiscal implication to the State is expected. The fiscal note for the bill anticipates that the Committee would need one full-time equivalent position and about \$75,000 to \$100,000 per year related to contractual fees. Funding to support the operation of the committee shall be provided from funds appropriated to the Texas Legislative Council.

SECTIONS 7, 14, 28, and 29 would amend the Government Code by requiring TDCJ to screen all

women who 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 cost of approximately \$21,000 annually. TDCJ has determined that the costs associated with implementing this portion of the bill are not anticipated to be significant and can be absorbed within the agency's current appropriations.

The bill also requires TDCJ to provide all female inmates an educational brochure on the risks and dangers of alcohol consumption during pregnancy. This provision would not have a fiscal impact because the brochure is available through the Texas Office for Prevention of Developmental Disabilities.

The bill also requires TDCJ to provide correctional healthcare information to offenders, which may result in some minimal costs that can be absorbed within the agency's current budget.

SECTION 10 would amend the Government Code by updating the Correctional Managed Health Care Committee's statutory duties to reflect the Committee's current functions. These are not new functions and would not have a fiscal impact.

SECTION 11 would amend the Government Code by requiring TDCJ to monitor the quality of care delivered by healthcare providers. The agency would decide what additional monitoring activities to perform based on its available resources. TDCJ has estimated that costs associated with implementing the bill would be \$845,009 which includes 11 additional FTEs (\$795,009) and operating expenses (\$50,000).

SECTIONS 13 and 30 would amend the Government Code by requiring the Committee to provide correctional healthcare information to the public, which could result in minimal costs resulting from improvements made to its website. The associated costs can be absorbed within the agency's current appropriations.

SECTION 18 would amend the Government Code by expanding the definition of close relative to include the nearest relative of a deceased victim by consanguinity relative to notifications made by TDCJ. House Bill 309 by Truitt includes this same language and the fiscal note estimate states that no fiscal impact is expected.

SECTIONS 19, 32, and 33 would amend the Government Code by requiring 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 bill states that the Parole Board shall conduct the annual review at one of its regular board meetings to avoid additional travel or meeting costs. Enlisting experts should not result in any significant costs and conducted within the Board's current budget.

The bill would also require parole panel members who depart from the guidelines to provide specific explanations for the deviation. 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 additional costs. Requiring the Parole Board to review parole guidelines and explain any deviations should encourage compliance with parole guidelines and could affect voting patterns, which could result in additional releases and savings to the State.

SECTIONS 21, 22, 34, and 35 would amend the Government Code by requiring TDCJ to identify eligible, low-risk offenders, and establish a process for releasing these offenders from parole and mandatory supervision early. Releasing offenders from parole and mandatory supervision early could reduce parole supervision caseloads and result in potential cost savings to TDCJ. However, TDCJ would use any savings realized from reduced supervision caseloads to supervise higher-risk offenders still on parole or mandatory supervision.

SECTION 25 would require TDCJ to study different types of electronic monitoring devices and report the findings to the Legislature by January 1, 2009. The agency has stated that associated costs can be absorbed within the agency's current appropriations.

SECTIONS 6, 13, and 17 would amend the Government Code, applies 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 apply to all agencies under Sunset review and would not have a fiscal impact. Section 6 also includes specific dates that TDCJ shall implement the adopted Sunset recommendations and shall report required information to Sunset relative to the department's implementations of the recommendations. The agencies would use existing resources to implement the requirements.

SECTION 8 would require that CMHC, UTMB, and Texas Tech shall on a specific date, report to the Sunset the information required relative to the implementation of the management action recommendations.

Methodology

SECTIONS 1 and 24: The savings would depend on the number of state jail inmates who would be eligible for release on medically recommended intensive supervision (MRIS), or the number of inmates who would be approved for release by judges. Since 2001, 14 state jail inmates have been released to MRIS. According to the Correctional Managed Health Care Committee, the average hospitalization cost for these offenders was \$72,247. This amount does not include outpatient costs associated with additional care for the offenders and is, therefore, conservative. If judges approve 5 percent of the 467 medically eligible inmates, a total of 23 inmates could be released. Once released, offenders would be eligible for federal benefits. The majority of offenders released on MRIS receive Medicaid assistance, which pays for approximately 64 percent of the medical care. If 64 percent of the medical costs of the 23 offenders were paid by the federal government, the State would benefit by \$1,063,479 in cost avoidance.

SECTIONS 2, 23, 26, and 37: Conducting early termination reviews of eligible offenders could coincide with routine offender assessments the CSCDs currently conduct and would not result in additional costs. Reducing the number of probationers through early termination would reduce both the amount of funding the departments receive from TDCJ's current community supervision funding formulas and from offender fee payments. However, it would depend on the number of probationers released early by the judges and there is no information available to indicate how often judges use this option. The bill would authorize TDCJ to make adjustments to the community supervision funding formula and would allow TDCJ to redirect funding for the CSCDs to offset any reduction in funding.

SECTIONS 7, 14, 28, and 29: Requiring TDCJ to screen all females who enter the prison system each year and provide brief interventions to those at risk of an alcohol-exposed pregnancy would have an estimated total cost of approximately \$21,000 annually. The Texas Office for Prevention of Developmental Disabilities estimates that each screening would cost approximately \$1 and that 25 percent of offenders screened would be found to be at risk of an alcohol exposed pregnancy. Each intervention would cost approximately \$8. In 2006, TDCJ received 7,054 females into the prison population. Screening the offenders would cost approximately \$7,054. Providing interventions to 25 percent of these offenders (1,764) would cost approximately \$14,112. It is believed that associated costs can be absorbed within the agency's current appropriations. Requiring TDCJ to provide all female inmates an educational brochure on the risks and dangers of alcohol consumption during pregnancy would not have a fiscal impact. This brochure is available through the Texas Office for Prevention of Developmental Disabilities.

Local Government Impact

SECTIONS 2, 23, 26, and 37: Reducing the number of probationers through early termination would reduce both the amount of funding the CSCDs receive from current community supervision funding formulas and from offender fee payments. The bill authorizes TDCJ to adjust funding methods to departments, which would offset any potential loss of funding resulting from early terminations. It is expected that no net fiscal impact to local governments would result from implementation of the bill.

Source Agencies:

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