

SENATE AMENDMENTS

2nd Printing

By: Madden, Rodriguez, Pena, Hodge, Woolley

H.B. No. 530

A BILL TO BE ENTITLED

AN ACT

relating to the operation and funding of drug court programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 469.001, Health and Safety Code, is amended to read as follows:

Sec. 469.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

1 (8) monitoring and evaluation of program goals and
2 effectiveness;

3 (9) continuing interdisciplinary education to promote
4 effective program planning, implementation, and operations; and

5 (10) development of partnerships with public agencies
6 and community organizations.

7 (b) If a defendant successfully completes a drug court
8 program, regardless of whether the defendant was convicted of the
9 offense for which the defendant entered the program or whether the
10 court deferred further proceedings without entering an
11 adjudication of guilt, after notice to the state and a hearing on
12 whether the person is otherwise entitled to the petition and
13 whether issuance of the order is in the best interest of justice,
14 the court may enter an order of nondisclosure under Section
15 411.081, Government Code, as if the defendant had received a
16 discharge and dismissal under Section 5(c), Article 42.12, Code of
17 Criminal Procedure, with respect to all records and files related
18 to the defendant's arrest for the offense for which the defendant
19 entered the program if the defendant:

20 (1) has not been previously convicted of a felony
21 offense; and

22 (2) is not convicted for any other felony offense
23 before the second anniversary of the defendant's successful
24 completion of the program.

25 (c) An order of nondisclosure issued under Subsection (b)
26 does not affect the consequences of a conviction with respect to any
27 driver's license suspension or denial. The Department of Public

1 Safety shall establish procedures to ensure compliance with this
2 subsection.

3 SECTION 2. Section 469.002, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
6 ~~as provided by Section 469.006, the~~] commissioners court of a
7 county or governing body of a municipality may establish the
8 following types of [a] drug court programs:

9 (1) drug courts for [~~program for~~] persons arrested
10 for, charged with, or convicted of:

11 (A) [~~1~~] an offense in which an element of the
12 offense is the use or possession of alcohol or the use, possession,
13 or sale of a controlled substance, a controlled substance analogue,
14 or marihuana; or

15 (B) [~~2~~] an offense in which the use of alcohol
16 or a controlled substance is suspected to have significantly
17 contributed to the commission of the offense and the offense did not
18 involve:

19 (i) [~~A~~] carrying, possessing, or using a
20 firearm or other dangerous weapon;

21 (ii) [~~B~~] the use of force against the
22 person of another; or

23 (iii) [~~C~~] the death of or serious bodily
24 injury to another;

25 (2) drug courts for juveniles detained for, taken into
26 custody for, or adjudicated as having engaged in:

27 (A) delinquent conduct, including habitual

1 felony conduct, or conduct indicating a need for supervision in
2 which an element of the conduct is the use or possession of alcohol
3 or the use, possession, or sale of a controlled substance, a
4 controlled substance analogue, or marihuana; or

5 (B) delinquent conduct, including habitual
6 felony conduct, or conduct indicating a need for supervision in
7 which the use of alcohol or a controlled substance is suspected to
8 have significantly contributed to the commission of the conduct and
9 the conduct did not involve:

10 (i) carrying, possessing, or using a
11 firearm or other dangerous weapon;

12 (ii) the use of force against the person of
13 another; or

14 (iii) the death of or serious bodily injury
15 to another;

16 (3) reentry drug courts for persons with a
17 demonstrated history of using alcohol or a controlled substance who
18 may benefit from a program designed to facilitate the person's
19 transition and reintegration into the community on release from a
20 state or local correctional facility;

21 (4) family dependency drug treatment courts for family
22 members involved in a suit affecting the parent-child relationship
23 in which a parent's use of alcohol or a controlled substance is a
24 primary consideration in the outcome of the suit; or

25 (5) programs for other persons not precisely described
26 by Subdivisions (1)-(4) who may benefit from a program that has the
27 essential characteristics described by Section 469.001.

1 SECTION 3. Section 469.003, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 469.003. OVERSIGHT. (a) The lieutenant governor and
4 the speaker of the house of representatives may assign to
5 appropriate legislative committees duties relating to the
6 oversight of drug court programs established under this chapter
7 [~~Section 469.002~~].

8 (b) A legislative committee or the governor may request the
9 state auditor to perform a management, operations, or financial or
10 accounting audit of a drug court program established under this
11 chapter [~~Section 469.002~~].

12 (c) A drug court program established under this chapter
13 shall:

14 (1) notify the criminal justice division of the
15 governor's office before or on implementation of the program; and

16 (2) provide information regarding the performance of
17 the program to the division on request.

18 SECTION 4. Section 469.004, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 469.004. FEES. (a) A drug court program established
21 under this chapter [~~Section 469.002~~] may collect from a participant
22 in the program:

23 (1) a reasonable program fee not to exceed \$1,000 [~~7~~
24 ~~which may be paid on a periodic basis or on a deferred payment~~
25 ~~schedule at the discretion of the judge, magistrate, or program~~
26 ~~director administering the program~~]; and

27 (2) an alcohol or controlled substance [~~a urinalysis~~]

1 testing, ~~and~~ counseling, and treatment fee [+

2 [~~(A)~~ ~~based on the participant's ability to pay,~~

3 and

4 [~~(B)~~] in an amount necessary to cover the costs
5 of the testing, ~~and~~ counseling, and treatment.

6 (b) Fees collected under this section may be paid on a
7 periodic basis or on a deferred payment schedule at the discretion
8 of the judge, magistrate, or program director administering the
9 program. The fees must be:

10 (1) [~~A drug court program may require a participant to~~
11 ~~pay all treatment costs incurred while participating in the~~
12 ~~program,~~] based on the participant's ability to pay; and

13 (2) used only for purposes specific to the program.

14 SECTION 5. Section 469.006, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
17 The commissioners court of a county with a population of more than
18 200,000 [~~550,000~~] shall establish a drug court program under
19 Subdivision (1) of Section 469.002.

20 (b) [~~A drug court program required under this section to be~~
21 ~~established must have at least 100 participants during the first~~
22 ~~four months in which the program is operating.~~

23 [~~(c)~~] A county required under this section to establish a
24 drug court program shall apply for [~~to the~~] federal and state
25 [~~government for any~~] funds available to pay the costs of the
26 program. The criminal justice division of the governor's office
27 may assist a county in applying for federal funds as required by

1 this subsection [~~including providing financial assistance to the~~
2 ~~county~~].

3 (c) Notwithstanding Subsection (a), a county is required to
4 establish a drug court program under this section only if the county
5 receives federal or state funding, including funding under Article
6 102.0178, Code of Criminal Procedure, specifically for that
7 purpose.

8 (d) A county that does not establish a drug court program as
9 required by this section and maintain the program is ineligible to
10 receive from the state:

11 (1) funds for a community supervision and corrections
12 department; and

13 (2) grants for substance abuse treatment programs
14 administered by the criminal justice division of the governor's
15 office.

16 SECTION 6. Section 469.007, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 469.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS
19 PROGRAMS. In addition to using a drug court program established
20 under this chapter [~~Section 469.002~~], the commissioners court of a
21 county or a court may use other drug awareness or drug and alcohol
22 driving awareness programs to treat persons convicted of drug or
23 alcohol related offenses.

24 SECTION 7. Chapter 469, Health and Safety Code, is amended
25 by adding Sections 469.005, 469.008, and 469.009 to read as
26 follows:

27 Sec. 469.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN

1 INTOXICATION OFFENSES. (a) The commissioners court of a county may
2 establish under this chapter a drug court program exclusively for
3 persons arrested for, charged with, or convicted of an offense
4 involving the operation of a motor vehicle while intoxicated.

5 (b) A county that establishes a drug court program under
6 this chapter but does not establish a separate program under this
7 section must employ procedures designed to ensure that a person
8 arrested for, charged with, or convicted of a second or subsequent
9 offense involving the operation of a motor vehicle while
10 intoxicated participates in the county's existing drug court
11 program.

12 Sec. 469.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
13 REQUIREMENT. (a) Notwithstanding Sections 13 and 16, Article
14 42.12, Code of Criminal Procedure, to encourage participation in a
15 drug court program established under this chapter, the judge or
16 magistrate administering the program may suspend any requirement
17 that, as a condition of community supervision, a participant in the
18 program work a specified number of hours at a community service
19 project or projects.

20 (b) On successful completion of a drug court program, a
21 judge or magistrate may excuse the participant from any condition
22 of community supervision previously suspended under Subsection
23 (a).

24 Sec. 469.009. OCCUPATIONAL DRIVER'S LICENSE.
25 Notwithstanding Section 521.242, Transportation Code, if a
26 participant's driver's license has been suspended as a result of an
27 alcohol-related or drug-related enforcement contact, as defined by

1 Section 524.001, Transportation Code, or as a result of a
2 conviction under Section 49.04, 49.07, or 49.08, Penal Code, the
3 judge or magistrate administering a drug court program under this
4 chapter may order that an occupational license be issued to the
5 participant. An order issued under this section is subject to
6 Sections 521.248-521.252, Transportation Code, except that any
7 reference to a petition under Section 521.242 of that code does not
8 apply.

9 SECTION 8. Subchapter A, Chapter 102, Code of Criminal
10 Procedure, is amended by adding Article 102.0178 to read as
11 follows:

12 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
13 DRUG CONVICTIONS. (a) In addition to other costs on conviction
14 imposed by this chapter, a person shall pay \$50 as a court cost on
15 conviction of an offense under:

16 (1) Chapter 49, Penal Code; or

17 (2) Chapter 481, Health and Safety Code.

18 (b) For purposes of this article, a person is considered to
19 have been convicted if:

20 (1) a sentence is imposed;

21 (2) the defendant receives community supervision or
22 deferred adjudication; or

23 (3) the court defers final disposition of the case.

24 (c) Court costs under this article are collected in the same
25 manner as other fines or costs. An officer collecting the costs
26 shall keep separate records of the funds collected as costs under
27 this article and shall deposit the funds in the county or municipal

1 treasury, as appropriate.

2 (d) The custodian of a county or municipal treasury shall:

3 (1) keep records of the amount of funds on deposit
4 collected under this article; and

5 (2) except as provided by Subsection (e), send to the
6 comptroller before the last day of the first month following each
7 calendar quarter the funds collected under this article during the
8 preceding quarter.

9 (e) A county or municipality is entitled to:

10 (1) if the custodian of the county or municipal
11 treasury complies with Subsection (d), retain 10 percent of the
12 funds collected under this article by an officer of the county or
13 municipality during the calendar quarter as a service fee; and

14 (2) retain in addition to the 10 percent authorized by
15 Subdivision (1) another 50 percent of the funds collected under
16 this article by an officer of the county or municipality during the
17 calendar quarter to be used exclusively for:

18 (A) the development and maintenance of drug court
19 programs operated within the county or municipality, if the county
20 or municipality has established a drug court program or establishes
21 a drug court program before the expiration of the calendar quarter;
22 or

23 (B) the development and operation of any programs
24 within the county or municipality that are designed to prevent or
25 provide education concerning alcohol and drug abuse, if the county
26 or municipality has not established a drug court program and does
27 not establish a drug court program before the expiration of the

1 calendar quarter.

2 (f) If no funds due as costs under this article are
3 deposited in a county or municipal treasury in a calendar quarter,
4 the custodian of the treasury shall file the report required for the
5 quarter in the regular manner and must state that no funds were
6 collected.

7 (g) The comptroller shall deposit the funds received under
8 this article to the credit of the drug court account in the general
9 revenue fund to help fund drug court programs established under
10 Chapter 469, Health and Safety Code. The legislature shall
11 appropriate money from the account solely to the criminal justice
12 division of the governor's office for distribution to drug court
13 programs that apply for the money.

14 (h) Funds collected under this article are subject to audit
15 by the comptroller.

16 SECTION 9. Chapter 54, Government Code, is amended by
17 adding Subchapter GG to read as follows:

18 SUBCHAPTER GG. MAGISTRATES FOR DRUG COURT PROGRAMS

19 Sec. 54.1801. DEFINITION. In this chapter, "drug court"
20 has the meaning assigned by Section 469.001, Health and Safety
21 Code.

22 Sec. 54.1802. APPLICATION OF SUBCHAPTER. This subchapter
23 applies to each district court in this state. If a provision of
24 this subchapter conflicts with a specific provision for a
25 particular district court, the specific provision controls.

26 Sec. 54.1803. APPOINTMENT. (a) The judges of the district
27 courts of a county hearing criminal cases, with the consent and

1 approval of the commissioners court of the county, may appoint the
2 number of magistrates set by the commissioners court to perform the
3 duties associated with the administration of drug courts as
4 authorized by this subchapter.

5 (b) Each magistrate's appointment must be made with the
6 approval of the majority of the judges described in Subsection (a).

7 (c) A magistrate appointed under this section serves at the
8 will of a majority of the appointing judges.

9 Sec. 54.1804. QUALIFICATIONS. A magistrate must:

10 (1) be a resident of this state and of the county in
11 which the magistrate is appointed to serve under this subchapter;
12 and

13 (2) have been licensed to practice law in this state
14 for at least four years.

15 Sec. 54.1805. COMPENSATION. A magistrate is entitled to
16 the salary determined by the county commissioners court.

17 Sec. 54.1806. JUDICIAL IMMUNITY. A magistrate has the same
18 judicial immunity as a district judge.

19 Sec. 54.1807. PROCEEDINGS THAT MAY BE REFERRED. (a) A
20 district judge may refer to a magistrate a criminal case for drug
21 court proceedings.

22 (b) A magistrate may not preside over a contested trial on
23 the merits, regardless of whether the trial is before a jury.

24 Sec. 54.1808. ORDER OF REFERRAL. (a) To refer one or more
25 cases to a drug court magistrate, a district judge must issue an
26 order of referral specifying the magistrate's duties.

27 (b) An order of referral may:

1 (1) limit the powers of the magistrate and direct the
2 magistrate to report on specific issues and perform particular
3 acts;

4 (2) set the time and place for the hearing;

5 (3) provide a date for filing the magistrate's
6 findings;

7 (4) designate proceedings for more than one case over
8 which the magistrate shall preside; and

9 (5) set forth general powers and limitations of
10 authority of the magistrate applicable to any case referred.

11 Sec. 54.1809. POWERS. (a) Except as limited by an order of
12 referral, a magistrate to whom a drug court case is referred may:

13 (1) conduct hearings;

14 (2) hear evidence;

15 (3) compel production of relevant evidence;

16 (4) rule on admissibility of evidence;

17 (5) issue summons for the appearance of witnesses;

18 (6) examine witnesses;

19 (7) swear witnesses for hearings; and

20 (8) perform any act and take any measure necessary and
21 proper for the efficient performance of the duties assigned by the
22 district judge.

23 (b) A magistrate may not enter a ruling on any issue of law
24 or fact if that ruling could result in dismissal or require
25 dismissal of a pending criminal prosecution, but the magistrate may
26 make findings, conclusions, and recommendations on those issues.

27 SECTION 10. Subchapter B, Chapter 102, Government Code, is

1 amended by adding Section 102.0215 to read as follows:

2 Sec. 102.0215. ADDITIONAL COURT COSTS ON CONVICTION: CODE
3 OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay
4 under the Code of Criminal Procedure, in addition to all other
5 costs, costs attendant to convictions under Chapter 49, Penal Code,
6 and under Chapter 481, Health and Safety Code, to help fund drug
7 court programs established under Chapter 469, Health and Safety
8 Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

9 SECTION 11. (a) Except as otherwise provided by this
10 section, the change in law made by this Act in amending Chapter 469,
11 Health and Safety Code, applies to a defendant who enters a drug
12 court program under Chapter 469, Health and Safety Code, regardless
13 of whether the defendant committed the offense for which the
14 defendant enters the program before, on, or after the effective
15 date of this Act.

16 (b) The commissioners court of a county required under
17 Section 469.006(b), Health and Safety Code, as amended by this Act,
18 to establish a drug court program shall establish the program not
19 later than the later of:

- 20 (1) September 1, 2008; or
21 (2) the first anniversary of the initial date on which
22 the federal census indicates that the county's population exceeds
23 200,000.

24 (c) The change in law made by this Act in adding Article
25 102.0178, Code of Criminal Procedure, and Section 102.0215,
26 Government Code, applies only to an offense committed on or after
27 the effective date of this Act. An offense committed before the

1 effective date of this Act is governed by the law in effect when the
2 offense was committed, and the former law is continued in effect for
3 that purpose. For purposes of this subsection, an offense was
4 committed before the effective date of this Act if any element of
5 the offense was committed before that date.

6 SECTION 12. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2007.

ADOPTED

MAY 17 2007

Latey Spaw
Secretary of the Senate

By: *Shiger*

H.B. No. 530

Substitute the following for H.B. No. 530:

By: *Shiger*

C.S. H.B. No. 530

A BILL TO BE ENTITLED

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 469.001, Health and Safety Code, is amended to read as follows:

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(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

1 (8) monitoring and evaluation of program goals and
2 effectiveness;

3 (9) continuing interdisciplinary education to promote
4 effective program planning, implementation, and operations; and

5 (10) development of partnerships with public agencies
6 and community organizations.

7 (b) If a defendant successfully completes a drug court
8 program, regardless of whether the defendant was convicted of the
9 offense for which the defendant entered the program or whether the
10 court deferred further proceedings without entering an
11 adjudication of guilt, after notice to the state and a hearing on
12 whether the defendant is otherwise entitled to the petition and
13 whether issuance of the order is in the best interest of justice,
14 the court shall enter an order of nondisclosure under Section
15 411.081, Government Code, as if the defendant had received a
16 discharge and dismissal under Section 5(c), Article 42.12, Code of
17 Criminal Procedure, with respect to all records and files related
18 to the defendant's arrest for the offense for which the defendant
19 entered the program if the defendant:

20 (1) has not been previously convicted of a felony
21 offense; and

22 (2) is not convicted for any other felony offense
23 before the second anniversary of the defendant's successful
24 completion of the program.

25 (c) Notwithstanding Subsection (b), a defendant is not
26 entitled to petition the court for an order of nondisclosure
27 following successful completion of a drug court program if the

1 defendant's entry into the program arose as the result of a
2 conviction for an offense involving the operation of a motor
3 vehicle while intoxicated.

4 SECTION 2. Section 469.002, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [~~Except~~
7 ~~as provided by Section 469.006, the~~] commissioners court of a
8 county or governing body of a municipality may establish the
9 following types of [a] drug court programs:

10 (1) drug courts for [~~program for~~] persons arrested
11 for, charged with, or convicted of:

12 (A) [~~(1)~~] an offense in which an element of the
13 offense is the use or possession of alcohol or the use, possession,
14 or sale of a controlled substance, a controlled substance analogue,
15 or marihuana; or

16 (B) [~~(2)~~] an offense in which the use of alcohol
17 or a controlled substance is suspected to have significantly
18 contributed to the commission of the offense and the offense did not
19 involve:

20 (i) [~~(A)~~] carrying, possessing, or using a
21 firearm or other dangerous weapon;

22 (ii) [~~(B)~~] the use of force against the
23 person of another; or

24 (iii) [~~(C)~~] the death of or serious bodily
25 injury to another;

26 (2) drug courts for juveniles detained for, taken into
27 custody for, or adjudicated as having engaged in:

1 (A) delinquent conduct, including habitual
2 felony conduct, or conduct indicating a need for supervision in
3 which an element of the conduct is the use or possession of alcohol
4 or the use, possession, or sale of a controlled substance, a
5 controlled substance analogue, or marihuana; or

6 (B) delinquent conduct, including habitual
7 felony conduct, or conduct indicating a need for supervision in
8 which the use of alcohol or a controlled substance is suspected to
9 have significantly contributed to the commission of the conduct and
10 the conduct did not involve:

11 (i) carrying, possessing, or using a
12 firearm or other dangerous weapon;

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14 another; or

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17 (3) reentry drug courts for persons with a
18 demonstrated history of using alcohol or a controlled substance who
19 may benefit from a program designed to facilitate the person's
20 transition and reintegration into the community on release from a
21 state or local correctional facility;

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23 members involved in a suit affecting the parent-child relationship
24 in which a parent's use of alcohol or a controlled substance is a
25 primary consideration in the outcome of the suit; or

26 (5) programs for other persons not precisely described
27 by Subdivisions (1)-(4) who may benefit from a program that has the

1 essential characteristics described by Section 469.001.

2 SECTION 3. Section 469.003, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 469.003. OVERSIGHT. (a) The lieutenant governor and
5 the speaker of the house of representatives may assign to
6 appropriate legislative committees duties relating to the
7 oversight of drug court programs established under this chapter
8 [~~Section 469.002~~].

9 (b) A legislative committee or the governor may request the
10 state auditor to perform a management, operations, or financial or
11 accounting audit of a drug court program established under this
12 chapter [~~Section 469.002~~].

13 (c) A drug court program established under this chapter
14 shall:

15 (1) notify the criminal justice division of the
16 governor's office before or on implementation of the program; and

17 (2) provide information regarding the performance of
18 the program to the division on request.

19 SECTION 4. Section 469.004, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 469.004. FEES. (a) A drug court program established
22 under this chapter [~~Section 469.002~~] may collect from a participant
23 in the program:

24 (1) a reasonable program fee not to exceed \$1,000[
25 ~~which may be paid on a periodic basis or on a deferred payment~~
26 ~~schedule at the discretion of the judge, magistrate, or program~~
27 ~~director administering the program)]; and~~

1 (2) an alcohol or controlled substance [a urinalysis]
2 testing, [and] counseling, and treatment fee[+]
3 ~~[(A) based on the participant's ability to pay,~~
4 and
5 ~~[(B)]~~ in an amount necessary to cover the costs
6 of the testing, [and] counseling, and treatment.

7 (b) Fees collected under this section may be paid on a
8 periodic basis or on a deferred payment schedule at the discretion
9 of the judge, magistrate, or program director administering the
10 program. The fees must be:

11 (1) ~~[A drug court program may require a participant to~~
12 ~~pay all treatment costs incurred while participating in the~~
13 ~~program,]~~ based on the participant's ability to pay; and

14 (2) used only for purposes specific to the program.

15 SECTION 5. Section 469.006, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
18 The commissioners court of a county with a population of more than
19 200,000 ~~[550,000]~~ shall establish a drug court program under
20 Subdivision (1) of Section 469.002.

21 (b) ~~[A drug court program required under this section to be~~
22 ~~established must have at least 100 participants during the first~~
23 ~~four months in which the program is operating.~~

24 ~~[(e)]~~ A county required under this section to establish a
25 drug court program shall apply for ~~[to the]~~ federal and state
26 ~~[government for any]~~ funds available to pay the costs of the
27 program. The criminal justice division of the governor's office

1 may assist a county in applying for federal funds as required by
2 this subsection[, ~~including providing financial assistance to the~~
3 ~~county~~].

4 (c) Notwithstanding Subsection (a), a county is required to
5 establish a drug court program under this section only if the county
6 receives federal or state funding, including funding under Article
7 102.0178, Code of Criminal Procedure, specifically for that
8 purpose.

9 (d) A county that does not establish a drug court program as
10 required by this section and maintain the program is ineligible to
11 receive from the state:

12 (1) funds for a community supervision and corrections
13 department; and

14 (2) grants for substance abuse treatment programs
15 administered by the criminal justice division of the governor's
16 office.

17 SECTION 6. Section 469.007, Health and Safety Code, is
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19 Sec. 469.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS
20 PROGRAMS. In addition to using a drug court program established
21 under this chapter [~~Section 469.002~~], the commissioners court of a
22 county or a court may use other drug awareness or drug and alcohol
23 driving awareness programs to treat persons convicted of drug or
24 alcohol related offenses.

25 SECTION 7. Chapter 469, Health and Safety Code, is amended
26 by adding Sections 469.0025, 469.005, 469.008, and 469.009 to read
27 as follows:

1 Sec. 469.0025. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The
2 commissioners courts of three or more counties, or the governing
3 bodies of three or more municipalities, may elect to establish a
4 regional drug court program under this chapter for the
5 participating counties or municipalities.

6 (b) For purposes of this chapter, each county or
7 municipality that elects to establish a regional drug court program
8 under this section is considered to have established the program
9 and is entitled to retain fees under Article 102.0178, Code of
10 Criminal Procedure, in the same manner as if the county or
11 municipality had established a drug court program without
12 participating in a regional program.

13 Sec. 469.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN
14 INTOXICATION OFFENSES. (a) The commissioners court of a county may
15 establish under this chapter a drug court program exclusively for
16 persons arrested for, charged with, or convicted of an offense
17 involving the operation of a motor vehicle while intoxicated.

18 (b) A county that establishes a drug court program under
19 this chapter but does not establish a separate program under this
20 section must employ procedures designed to ensure that a person
21 arrested for, charged with, or convicted of a second or subsequent
22 offense involving the operation of a motor vehicle while
23 intoxicated participates in the county's existing drug court
24 program.

25 Sec. 469.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
26 REQUIREMENT. (a) Notwithstanding Sections 13 and 16, Article
27 42.12, Code of Criminal Procedure, to encourage participation in a

1 drug court program established under this chapter, the judge or
2 magistrate administering the program may suspend any requirement
3 that, as a condition of community supervision, a participant in the
4 program work a specified number of hours at a community service
5 project or projects.

6 (b) On a participant's successful completion of a drug court
7 program, a judge or magistrate may excuse the participant from any
8 condition of community supervision previously suspended under
9 Subsection (a).

10 Sec. 469.009. OCCUPATIONAL DRIVER'S LICENSE.
11 Notwithstanding Section 521.242, Transportation Code, if a
12 participant's driver's license has been suspended as a result of an
13 alcohol-related or drug-related enforcement contact, as defined by
14 Section 524.001, Transportation Code, or as a result of a
15 conviction under Section 49.04, 49.07, or 49.08, Penal Code, the
16 judge or magistrate administering a drug court program under this
17 chapter may order that an occupational license be issued to the
18 participant. An order issued under this section is subject to
19 Sections 521.248-521.252, Transportation Code, except that any
20 reference to a petition under Section 521.242 of that code does not
21 apply.

22 SECTION 8. Subchapter A, Chapter 102, Code of Criminal
23 Procedure, is amended by adding Article 102.0178 to read as
24 follows:

25 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
26 DRUG CONVICTIONS. (a) In addition to other costs on conviction
27 imposed by this chapter, a person shall pay \$50 as a court cost on

1 conviction of an offense punishable as a Class B misdemeanor or any
2 higher category of offense under:

3 (1) Chapter 49, Penal Code; or

4 (2) Chapter 481, Health and Safety Code.

5 (b) For purposes of this article, a person is considered to
6 have been convicted if:

7 (1) a sentence is imposed; or

8 (2) the defendant receives community supervision or
9 deferred adjudication.

10 (c) Court costs under this article are collected in the same
11 manner as other fines or costs. An officer collecting the costs
12 shall keep separate records of the funds collected as costs under
13 this article and shall deposit the funds in the county or municipal
14 treasury, as appropriate.

15 (d) The custodian of a county or municipal treasury shall:

16 (1) keep records of the amount of funds on deposit
17 collected under this article; and

18 (2) except as provided by Subsection (e), send to the
19 comptroller before the last day of the first month following each
20 calendar quarter the funds collected under this article during the
21 preceding quarter.

22 (e) A county or municipality is entitled to:

23 (1) if the custodian of the county or municipal
24 treasury complies with Subsection (d), retain 10 percent of the
25 funds collected under this article by an officer of the county or
26 municipality during the calendar quarter as a service fee; and

27 (2) if the county or municipality has established a

1 drug court program or establishes a drug court program before the
2 expiration of the calendar quarter, retain in addition to the 10
3 percent authorized by Subdivision (1) another 50 percent of the
4 funds collected under this article by an officer of the county or
5 municipality during the calendar quarter to be used exclusively for
6 the development and maintenance of drug court programs operated
7 within the county or municipality.

8 (f) If no funds due as costs under this article are
9 deposited in a county or municipal treasury in a calendar quarter,
10 the custodian of the treasury shall file the report required for the
11 quarter in the regular manner and must state that no funds were
12 collected.

13 (g) The comptroller shall deposit the funds received under
14 this article to the credit of the drug court account in the general
15 revenue fund to help fund drug court programs established under
16 Chapter 469, Health and Safety Code. The legislature shall
17 appropriate money from the account solely to the criminal justice
18 division of the governor's office for distribution to drug court
19 programs that apply for the money.

20 (h) Funds collected under this article are subject to audit
21 by the comptroller.

22 SECTION 9. Chapter 54, Government Code, is amended by
23 adding Subchapter GG to read as follows:

24 SUBCHAPTER GG. MAGISTRATES FOR DRUG COURT PROGRAMS

25 Sec. 54.1801. DEFINITION. In this subchapter, "drug court"
26 has the meaning assigned by Section 469.001, Health and Safety
27 Code.

1 Sec. 54.1802. APPLICABILITY OF SUBCHAPTER. This subchapter
2 applies to each district court and statutory county court with
3 criminal jurisdiction in this state. If a provision of this
4 subchapter conflicts with a specific provision for a particular
5 district court or statutory county court, the specific provision
6 controls.

7 Sec. 54.1803. APPOINTMENT. (a) The judges of the district
8 courts of a county hearing criminal cases and the judges of the
9 statutory county courts with criminal jurisdiction in a county,
10 with the consent and approval of the commissioners court of the
11 county, may appoint the number of magistrates set by the
12 commissioners court to perform the duties associated with the
13 administration of drug courts as authorized by this subchapter.

14 (b) Each magistrate's appointment must be made with the
15 approval of the majority of the district court or statutory county
16 court judges described in Subsection (a), as applicable.

17 (c) A magistrate appointed under this section serves at the
18 will of a majority of the appointing judges.

19 Sec. 54.1804. QUALIFICATIONS. A magistrate must:

20 (1) be a resident of this state and of the county in
21 which the magistrate is appointed to serve under this subchapter;
22 and

23 (2) have been licensed to practice law in this state
24 for at least four years.

25 Sec. 54.1805. COMPENSATION. A magistrate is entitled to
26 the salary determined by the county commissioners court.

27 Sec. 54.1806. JUDICIAL IMMUNITY. A magistrate has the same

1 judicial immunity as a judge of a district court or statutory county
2 court appointing the magistrate.

3 Sec. 54.1807. PROCEEDINGS THAT MAY BE REFERRED. (a) A
4 district judge or judge of a statutory county court with criminal
5 jurisdiction may refer to a magistrate a criminal case for drug
6 court proceedings.

7 (b) A magistrate may not preside over a contested trial on
8 the merits, regardless of whether the trial is before a jury.

9 Sec. 54.1808. ORDER OF REFERRAL. (a) To refer one or more
10 cases to a drug court magistrate, a district judge or judge of a
11 statutory county court with criminal jurisdiction must issue an
12 order of referral specifying the magistrate's duties.

13 (b) An order of referral may:

14 (1) limit the powers of the magistrate and direct the
15 magistrate to report on specific issues and perform particular
16 acts;

17 (2) set the time and place for the hearing;

18 (3) provide a date for filing the magistrate's
19 findings;

20 (4) designate proceedings for more than one case over
21 which the magistrate shall preside; and

22 (5) set forth general powers and limitations of
23 authority of the magistrate applicable to any case referred.

24 Sec. 54.1809. POWERS. (a) Except as limited by an order of
25 referral, a magistrate to whom a drug court case is referred may:

26 (1) conduct hearings;

27 (2) hear evidence;

1 (3) compel production of relevant evidence;
2 (4) rule on admissibility of evidence;
3 (5) issue summons for the appearance of witnesses;
4 (6) examine witnesses;
5 (7) swear witnesses for hearings; and
6 (8) perform any act and take any measure necessary and
7 proper for the efficient performance of the duties assigned by the
8 district or statutory county court judge.

9 (b) A magistrate may not enter a ruling on any issue of law
10 or fact if that ruling could result in dismissal or require
11 dismissal of a pending criminal prosecution, but the magistrate may
12 make findings, conclusions, and recommendations on those issues.

13 SECTION 10. Subchapter B, Chapter 102, Government Code, is
14 amended by adding Section 102.0215 to read as follows:

15 Sec. 102.0215. ADDITIONAL COURT COSTS ON CONVICTION: CODE
16 OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay
17 under the Code of Criminal Procedure, in addition to all other
18 costs, costs attendant to convictions under Chapter 49, Penal Code,
19 and under Chapter 481, Health and Safety Code, to help fund drug
20 court programs established under Chapter 469, Health and Safety
21 Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

22 SECTION 11. (a) Except as otherwise provided by this
23 section, the change in law made by this Act in amending Chapter 469,
24 Health and Safety Code, applies to a defendant who enters a drug
25 court program under Chapter 469, Health and Safety Code, regardless
26 of whether the defendant committed the offense for which the
27 defendant enters the program before, on, or after the effective

1 date of this Act.

2 (b) The commissioners court of a county required under
3 Section 469.006(a), Health and Safety Code, as amended by this Act,
4 to establish a drug court program shall establish the program not
5 later than the later of:

6 (1) September 1, 2008; or

7 (2) the first anniversary of the initial date on which
8 the federal census indicates that the county's population exceeds
9 200,000.

10 (c) The change in law made by this Act in adding Article
11 102.0178, Code of Criminal Procedure, and Section 102.0215,
12 Government Code, applies only to an offense committed on or after
13 the effective date of this Act. An offense committed before the
14 effective date of this Act is governed by the law in effect when the
15 offense was committed, and the former law is continued in effect for
16 that purpose. For purposes of this subsection, an offense was
17 committed before the effective date of this Act if any element of
18 the offense was committed before that date.

19 SECTION 12. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2007.

ADOPTED

Floor Amendment No. 1

MAY 17 2007

Latoy Spaw
Secretary of the Senate

Seligson
(Seligson)

1 Amend C.S.H.B. 530 (Senate Committee Report) as follows:

2 In SECTION 8 of the bill, starting on page 4, line 45,
3 strike proposed Article 102.0178 and replace with the following:

4 Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND
5 DRUG CONVICTIONS. (a) In addition to other costs on conviction
6 imposed by this chapter, a person shall pay \$50 as a court cost
7 on conviction of an offense punishable as a Class B misdemeanor
8 or any higher category of offense under:

9 (1) Chapter 49, Penal Code; or

10 (2) Chapter 481, Health and Safety Code.

11 (b) For purposes of this article, a person is considered to
12 have been convicted if:

13 (1) a sentence is imposed; or

14 (2) the defendant receives community supervision or
15 deferred adjudication.

16 (c) Court costs under this article are collected in the
17 same manner as other fines or costs. An officer collecting the
18 costs shall keep separate records of the funds collected as costs
19 under this article and shall deposit the funds in the county
20 treasury, as appropriate.

21 (d) The custodian of a county treasury shall:

22 (1) keep records of the amount of funds on deposit
23 collected under this article; and

24 (2) except as provided by Subsection (e), send to the
25 comptroller before the last day of the first month following each
26 calendar quarter the funds collected under this article during
27 the preceding quarter.

28 (e) A county is entitled to:

29 (1) if the custodian of the county treasury complies
30 with Subsection (d), retain 10 percent of the funds collected
31 under this article by an officer of the county during the
32 calendar quarter as a service fee; and

1 (2) if the county has established a drug court program
2 or establishes a drug court program before the expiration of the
3 calendar quarter, retain in addition to the 10 percent authorized
4 by Subdivision (1) another 50 percent of the funds collected
5 under this article by an officer of the county during the
6 calendar quarter to be used exclusively for the development and
7 maintenance of drug court programs operated within the county.

8 (f) If no funds due as costs under this article are
9 deposited in a county treasury in a calendar quarter, the
10 custodian of the treasury shall file the report required for the
11 quarter in the regular manner and must state that no funds were
12 collected.

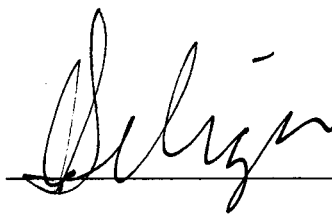
13 (g) The comptroller shall deposit the funds received under
14 this article to the credit of the drug court account in the
15 general revenue fund to help fund drug court programs established
16 under Chapter 469, Health and Safety Code. The legislature shall
17 appropriate money from the account solely to the criminal justice
18 division of the governor's office for distribution to drug court
19 programs that apply for the money.

20 (h) Funds collected under this article are subject to audit
21 by the comptroller.

22

Floor Amendment No. 2

By:


(Seligson)

1 Amend C.S.H.B. 530 (Senate Committee Report) as follows:
2 In SECTION 9 of the bill, on page 6, lines 14-29, strike
3 proposed Section 54.1809 and replace with the following:
4 Sec. 54.1809. POWERS. Except as limited by an order of
5 referral, a magistrate to whom a drug court case is referred may
6 perform any act and take any measure necessary and proper for the
7 efficient performance of the duties assigned by the district or
8 statutory county court judge.

ADOPTED

MAY 17 2007


Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.),
Committee Report 2nd House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB530, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>New General Revenue Dedicated-Drug Court</i>	Probable (Cost) from <i>New General Revenue Dedicated-Drug Court</i>
2008	\$929,000	(\$929,000)
2009	\$2,258,000	(\$2,258,000)
2010	\$2,288,000	(\$2,288,000)
2011	\$2,317,000	(\$2,317,000)
2012	\$2,347,000	(\$2,347,000)

Fiscal Analysis

This bill would amend Chapter 469 of the Health and Safety Code to expand the definition of drug courts to allow other types of problem-solving courts to be established. These new problem-solving courts would include, but would not be limited to, DWI courts, juvenile drug courts, reentry drug courts, and family dependency drug courts. Currently, only counties have the authority to establish drug courts. The bill would also authorize municipalities to establish said programs.

The bill would establish the conditions and procedures for defendants' entry into drug court programs and the final disposition of cases. The bill would lower the population threshold for requiring the establishment of drug court programs in certain counties, provided those counties received federal or state funding for the programs. Currently, drug court programs are only mandatory in counties with a population over 550,000. This bill would reduce that threshold to more than 200,000 people as

provided in Section 5 and would make the drug courts mandatory contingent upon funding.

Section 1 of the bill states that courts may enter an order of nondisclosure under Government Code 411.081 with respect to all records and files related to defendant's arrest for the offense for which the defendant entered the drug court program if the defendant: 1) has not been previously convicted of a felony; 2) does not get convicted for another felony offense in the two years after the completion of the drug court program.

This would allow anyone who has completed a drug court program to have the court give notice to the state and hold a hearing, and then enter an order of nondisclosure for all records relating to the offense that made them eligible for the drug court program. Under 469.002, drug court programs may include drug courts for persons arrested for, charged with, or convicted of an offense in which an element of the offense is the use or possession of a controlled substance, or marihuana. Therefore, a person convicted of possession of a controlled substance or marihuana can be placed in the drug court program and upon completion of the program (if they have no prior felony or get convicted of a felony within 2 years), the person is eligible for the order of nondisclosure under 469.001(b). Non-disclosure would not apply to the issuance of a driver's license or for offenders who entered the program as a result of a DWI offense.

Section 3 requires drug court programs to notify the Criminal Justice Division (CJD) of the Governor's Office prior to or upon completion of implementation and to provide CJD with performance data on request.

Section 4 of the bill would authorize drug courts to impose, based on a defendant's ability to pay, additional local fees to support the programs. Judges, magistrates, or program administrators would have the discretion to allow defendants to pay the fees on a periodic basis or on a deferred payment schedule.

Section 7 of the bill adds a provision that allows three or more counties or municipalities to work together to establish a regional drug court program as opposed to requiring that each county establish individual drug court programs. The counties and municipalities participating in the regional drug court program would still retain 50 percent of the revenue generated by the \$50 fee, in addition to the 10% service fee.

Section 7 of the bill would also 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*.

Provisions in Section 7 would amend Chapter 469 of the Health and Safety Code to statutorily recognize DWI courts and apply the existing requirements for drug courts to DWI courts. Some exceptions to the requirements would apply. Counties would have the option of accepting DWI offenders in their existing drug court programs or create a separate DWI court. 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 give judges or magistrates administering the program the option to suspend any requirements as a condition of community supervision as it relates to 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 community service hours.

The bill would amend Chapter 469 of the Health and Safety Code 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 8 of the bill would amend Chapter 102, Subchapter A of the Code of Criminal Procedure to impose a new court cost of \$50 on the conviction of certain intoxication and drug offenses to be used to fund drug courts. The State would receive 40 percent of the \$50 fee, to be used to help fund drug court programs established under Chapter 469 of the Health and Safety Code. Counties and municipalities would be allowed to retain 10 percent as a service fee, and an additional 50 percent of the revenue, if the county or municipality keeps record of the total amount collected and remits collections due to the state from this fee, on a quarterly basis, to the Comptroller. Counties would be allowed to use these funds to develop and maintain drug courts. Under Section 8, the Comptroller would be required to deposit and credit the funds to the newly created General Revenue-Dedicated Account—Drug Courts. The bill would direct the Legislature to appropriate revenue in the account to the Criminal Justice Division of the Governor's Office for distribution to applicable drug court programs. The bill would authorize the auditing of the court cost collections by the Comptroller.

Section 9 outlines the powers of a magistrate as they pertain to drug court programs.

Section 10 of the bill would make a conforming amendment to Subchapter B, Chapter 102 of the Government Code to revise the informational listing of court costs.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The new court cost would not apply to offenses, in part or whole, committed before the effective date.

This bill would create a dedicated account in the General Revenue Fund, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in the bill would be subject to the funds consolidation review by the current Legislature.

Methodology

Currently, there are nine counties that fit the requirement of a population greater than 550,000. If the population threshold were reduced to over 200,000 people, 12 additional counties would be required to operate drug courts under this bill according to 2005 US Censuses Bureau population estimates. This would bring the total number of counties in Texas statutorily required to have drug courts up to 21.

The annual gain to the State would be \$929,000 in General Revenue-Dedicated Funds in fiscal year 2008 and \$2,258,000 in fiscal year 2009. The gain to the state was based on data from the Annual Statistical Report for the Texas Judiciary-Fiscal 2006 data on the number of convictions and deferred adjudications in three categories (Drug Sale or Manufacture, Drug Possession, and Felony D.W.I.). The total number of convictions is multiplied by the \$50 fee, multiplied by 40% (counties retain 60%), and multiplied by a collection rate of 60% for court costs as estimated by the Comptroller. In the first year, only 5 months will be collected because counties remit to the state each calendar quarter. This is reflected in the fiscal year 2008 revenue gain. The fiscal impact table assumes that all revenue collected in the newly created GR-D (Drug Court) account will be disbursed in the form of grants to counties interested in developing and operating drug court programs.

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. The additional revenues generated by the bill would allow the 21 courts to be funded at a higher level per court than is currently provided for the mandated courts.

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 drug court or other problem-solving court programs.

Local Government Impact

Local governments will see an increase in revenue due to the new \$50 court cost. This revenue may

be used to develop and maintain the drug court programs or other problem-solving courts as defined in Chapter 469 of the Health and Safety Code. Counties will see a revenue gain estimated to be \$1,393,000 in fiscal year 2008 and \$3,387,000 in fiscal year 2009. This estimate assumes that all counties collecting the revenue will use it to develop and maintain drug court programs.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 696 Department of Criminal Justice

LBB Staff: JOB, YD, ES, JI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: **HB530** by Madden (Relating to the operation and funding of drug court programs.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB530, As Engrossed: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from New General Revenue Dedicated-Drug Court	Probable (Cost) from New General Revenue Dedicated-Drug Court
2008	\$929,000	(\$929,000)
2009	\$2,258,000	(\$2,258,000)
2010	\$2,288,000	(\$2,288,000)
2011	\$2,317,000	(\$2,317,000)
2012	\$2,347,000	(\$2,347,000)

Fiscal Analysis

This bill would amend Chapter 469 of the Health and Safety Code to expand the definition of drug courts to allow other types of problem-solving courts to be established. These new problem-solving courts would include, but would not be limited to, DWI courts, juvenile drug courts, reentry drug courts, and family dependency drug courts. Currently, only counties have the authority to establish drug courts. The bill would also authorize municipalities to establish said programs.

The bill would establish the conditions and procedures for defendants' entry into drug court programs and the final disposition of cases. The bill would lower the population threshold for requiring the establishment of drug court programs in certain counties, provided those counties received federal or state funding for the programs. Currently, drug court programs are only mandatory in counties with a population over 550,000. This bill would reduce that threshold to more than 200,000 people as

provided in section 5.

Section 1 of the bill states that courts may enter an order of nondisclosure under Government Code 411.081 with respect to all records and files related to defendant's arrest for the offense for which the defendant entered the drug court program if the defendant: 1) has not been previously convicted of a felony; 2) does not get convicted for another felony offense in the two years after the completion of the drug court program.

This amendment would allow anyone who has completed a drug court program to have the court give notice to the state and hold a hearing, and then enter an order of nondisclosure for all records relating to the offense that made them eligible for the drug court program. Under 469.002, drug court programs may include drug courts for persons arrested for, charged with, or convicted of an offense in which an element of the offense is the use or possession of a controlled substance, or marihuana.

Therefore, a person convicted of possession of a controlled substance or marihuana can be placed in the drug court program and upon completion of the program (if they have no prior felony or get convicted of a felony within 2 years), the person is eligible for the order of nondisclosure under 469.001(b). Non-disclosure would not apply to the issuance of a driver's license.

Section 3 of the 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*.

Provisions in this section would amend Chapter 469 of the Health and Safety Code to statutorily recognize DWI courts and apply the existing requirements for drug courts to DWI courts. Some exceptions to the requirements would apply. Counties would have the option of accepting DWI offenders in their existing drug court programs or create a separate DWI court. 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 give judges or magistrates administering the program the option to suspend any requirements as a condition of community supervision as it relates to 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 community service hours.

The bill would amend Chapter 469 of the Health and Safety Code 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 3 also requires drug court programs to notify the Criminal Justice Division (CJD) of the Governor's Office prior to or upon completion of implementation and to provide CJD with performance data on request.

Section 4 of the bill would authorize drug courts to impose, based on a defendant's ability to pay, additional local fees to support the programs. Judges, magistrates, or program administrators would have the discretion to allow defendants to pay the fees on a periodic basis or on a deferred payment schedule.

Section 6 of the bill would amend Chapter 102, Subchapter A of the Code of Criminal Procedure to impose a new court cost of \$50 on the conviction of certain intoxication and drug offenses to be used to fund drug courts. The State would receive 40 percent of the \$50 fee, to be used to help fund drug court programs established under Chapter 469 of the Health and Safety Code. Counties and

municipalities would be allowed to retain 10 percent as a service fee, and an additional 50 percent of the revenue, if the county or municipality keeps record of the total amount collected and remits collections due to the state from this fee, on a quarterly basis, to the Comptroller. Counties would be allowed to use these funds to develop and maintain drug courts or develop and operate any programs designed to prevent or provide education concerning alcohol and drug abuse within a county that does not establish a drug court program. The Comptroller would be required to deposit and credit the funds to the newly created General Revenue-Dedicated Account—Drug Courts. The bill would direct the Legislature to appropriate revenue in the account to the Criminal Justice Division of the Governor's Office for distribution to applicable drug court programs. The bill would authorize the auditing of the court cost collections by the Comptroller.

Section 7 of the bill outlines the powers of a magistrate as they pertain to drug court programs.

Finally, Section 8 of the bill would make a conforming amendment to Subchapter B, Chapter 102 of the Government Code to revise the informational listing of court costs.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The new court cost would not apply to offenses, in part or whole, committed before the effective date.

This bill would create a dedicated account in the General Revenue Fund, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in the bill would be subject to the funds consolidation review by the current Legislature.

Methodology

Currently, there are nine counties that fit the requirement of a population greater than 550,000. If the population threshold were reduced to over 200,000 people, 12 additional counties would be required to operate drug courts under this bill according to 2005 US Censuses Bureau population estimates. This would bring the total number of counties in Texas statutorily required to have drug courts up to 21.

The annual gain to the State would be \$929,000 in General Revenue-Dedicated Funds in fiscal year 2008 and \$2,258,000 in fiscal year 2009. The gain to the state was based on data from the Annual Statistical Report for the Texas Judiciary-Fiscal 2006 data on the number of convictions and deferred adjudications in three categories (Drug Sale or Manufacture, Drug Possession, and Felony D.W.I.). The total number of convictions is multiplied by the \$50 fee, multiplied by 40% (counties retain 60%), and multiplied by a collection rate of 60% for court costs as estimated by the Comptroller. In the first year, only 5 months will be collected because counties remit to the state each calendar quarter. This is reflected in the fiscal year 2008 revenue gain.

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. The additional revenues generated by the bill would allow the 21 courts to be funded at a higher level per court than is currently provided for the mandated courts.

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 drug court or other problem-solving court programs.

Local Government Impact

Local governments will see an increase in revenue due to the new \$50 court cost. This revenue may be used to develop and maintain the drug court programs or other problem-solving courts as defined in Chapter 469 of the Health and Safety Code, or may be used to develop and operate develop and operate any programs designed to prevent or provide education concerning alcohol and drug abuse within a county that has not/does not establish a drug court program. Counties will see a revenue gain estimated to be \$1,393,000 in fiscal year 2008 and \$3,387,000 in fiscal year 2009.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 696 Department of Criminal Justice

LBB Staff: JOB, YD, ES, JI

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: HB530 by Madden (Relating to the operation and funding of drug court programs.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB530, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>New General Revenue Dedicated-Drug Court</i>	Probable (Cost) from <i>New General Revenue Dedicated-Drug Court</i>
2008	\$929,000	(\$929,000)
2009	\$2,258,000	(\$2,258,000)
2010	\$2,288,000	(\$2,288,000)
2011	\$2,317,000	(\$2,317,000)
2012	\$2,347,000	(\$2,347,000)

Fiscal Analysis

This committee substitute bill would amend Chapter 469 of the Health and Safety Code to expand the definition of drug courts to allow other types of problem-solving courts to be established. These new problem-solving courts would include, but would not be limited to, juvenile drug courts, reentry drug courts, and family dependency drug courts. Currently, only counties have the authority to establish drug courts. The bill would also authorize municipalities to establish said programs.

The bill would establish the conditions and procedures for defendants' entry into drug court programs and the final disposition of cases. The bill would lower the population threshold for requiring the establishment of drug court programs in certain counties, provided those counties received federal or state funding for the programs. Currently, drug court programs are only mandatory in counties with a population over 550,000. This bill would reduce that threshold to more than 200,000 people as

provided in section 5.

Section 1 of the bill states that courts shall enter an order of nondisclosure under Government Code 411.081 with respect to all records and files related to defendant's arrest for the offense for which the defendant entered the drug court program if the defendant: 1) has not been previously convicted of a felony; 2) does not get convicted for another felony offense in the two years after the completion of the drug court program.

This amendment would allow anyone who has completed a drug court program to have the court give notice to the state and hold a hearing, and then enter an order of nondisclosure for all records relating to the offense that made them eligible for the drug court program. Under 469.002, drug court programs may include drug courts for persons arrested for, charged with, or convicted of an offense in which an element of the offense is the use or possession of a controlled substance, or marihuana.

Therefore, a person convicted of possession of a controlled substance or marihuana can be placed in the drug court program and upon completion of the program (if they have no prior felony or get convicted of a felony within 2 years), the person is eligible for the order of nondisclosure under 469.001(b). Non-disclosure would not apply to the issuance of a driver's license.

Section 3 of the bill requires drug court programs to notify the Criminal Justice Division (CJD) of the Governor's Office prior to or upon completion of implementation and to provide CJD with performance data on request.

Section 4 of the bill would authorize drug courts to impose, based on a defendant's ability to pay, additional local fees to support the programs. Judges, magistrates, or program administrators would have the discretion to allow defendants to pay the fees on a periodic basis or on a deferred payment schedule.

Section 6 of the bill would amend Chapter 102, Subchapter A of the Code of Criminal Procedure to impose a new court cost of \$50 on the conviction of certain intoxication and drug offenses to be used to fund drug courts. The State would receive 40 percent of the \$50 fee, to be used to help fund drug court programs established under Chapter 469 of the Health and Safety Code. Counties and municipalities would be allowed to retain 10 percent as a service fee, and an additional 50 percent of the revenue to fund the development and maintenance of drug courts, if the county or municipality keeps record of the total amount collected and remits collections due to the state from this fee, on a quarterly basis, to the Comptroller. The Comptroller would be required to deposit and credit the funds to the newly created General Revenue-Dedicated Account—Drug Courts. The bill would direct the Legislature to appropriate revenue in the account to the Criminal Justice Division of the Governor's Office for distribution to applicable drug court programs. The bill would authorize the auditing of the court cost collections by the Comptroller.

Section 7 of the bill outlines the powers of a magistrate as they pertain to drug court programs.

Finally, Section 8 of the bill would make a conforming amendment to Subchapter B, Chapter 102 of the Government Code to revise the informational listing of court costs.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The new court cost would not apply to offenses, in part or whole, committed before the effective date.

This bill would create a dedicated account in the General Revenue Fund, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in the bill would be subject to the funds consolidation review by the current Legislature.

Methodology

Currently, there are nine counties that fit the requirement of a population greater than 550,000. If the population threshold were reduced to over 200,000 people, 12 additional counties would be required to operate drug courts under this bill according to 2005 US Censes Bureau population estimates. This

would bring the total number of counties in Texas statutorily required to have drug courts up to 21.

The annual gain to the State would be \$929,000 in General Revenue-Dedicated Funds in fiscal year 2008 and \$2,258,000 in fiscal year 2009. The gain to the state was based on data from the Annual Statistical Report for the Texas Judiciary-Fiscal 2006 data on the number of convictions and deferred adjudications in three categories (Drug Sale or Manufacture, Drug Possession, and Felony D.W.I.). The total number of convictions is multiplied by the \$50 fee, multiplied by 40% (counties retain 60%), and multiplied by a collection rate of 60% for court costs as estimated by the Comptroller. In the first year, only 5 months will be collected because counties remit to the state each calendar quarter. This is reflected in the fiscal year 2008 revenue gain.

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. The additional revenues generated by the bill would allow the 21 courts to be funded at a higher level per court than is currently provided for the mandated courts.

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 drug court or other problem-solving court programs.

Local Government Impact

Local governments will see an increase in revenue due to the new \$50 court cost. This revenue may be used to develop and maintain the drug court programs or other problem-solving courts as defined in Chapter 469 of the Health and Safety Code. However, the fiscal impact may vary by county depending on whether or not the county elects to use these funds for the development or maintenance of drug courts. Assuming all counties elect to operate a drug court and retain the 60 percent of the fee that they are entitled to for the purposes outlined in the bill, they will see a revenue gain estimated to be \$1,393,000 in fiscal year 2008 and \$3,387,000 in fiscal year 2009.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 696 Department of Criminal Justice

LBB Staff: JOB, YD, ES, JI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

March 10, 2007

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

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

IN RE: **HB530** by Madden (Relating to the operation and funding of drug court programs.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB530, As Introduced: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from New General Revenue Dedicated	Probable (Cost) from New General Revenue Dedicated
2008	\$1,161,000	\$1,161,000
2009	\$2,823,000	\$2,823,000
2010	\$2,859,000	\$2,859,000
2011	\$2,897,000	\$2,897,000
2012	\$2,934,000	\$2,934,000

Fiscal Analysis

This bill would amend Chapter 469 of the Health and Safety Code to expand the definition of drug courts to allow other types of problem-solving courts to be established. These new problem-solving courts would include, but would not be limited to, juvenile drug courts, reentry drug courts, and family dependency drug courts. Currently, only counties have the authority to establish drug courts, the bill would also authorize municipalities to establish said programs.

The bill would establish the conditions and procedures for defendants' entry into drug court programs and the final disposition of cases. The bill would lower the population threshold for requiring the establishment of drug court programs in certain counties, provided those counties received federal or state funding for the programs. Currently, drug court programs are only mandatory in counties with a population over 550,000. This bill would reduce that threshold to more than 200,000 people as

provided in section 5.

Section 1 of the bill states that courts shall enter an order of nondisclosure under Government Code 411.081 with respect to all records and files related to defendant's arrest for the offense for which the defendant entered the drug court program if the defendant: 1) has not been previously convicted of a felony; 2) does not get arrested for another felony offense in the two years after the completion of the drug court program.

This amendment would allow anyone who has completed a drug court program to have the court enter an order of nondisclosure for all records relating to the offense that made them eligible for the drug court program. Under 469.002, drug court programs may include drug courts for persons arrested for, charged with, or convicted of an offense in which an element of the offense is the use or possession of a controlled substance, or marihuana. Therefore, a person convicted of possession of a controlled substance or marihuana can be placed in the drug court program and upon completion of the program (if they have no prior felony or get convicted of a felony within 2 years), the person is eligible for the order of nondisclosure under 469.001(c).

Section 4 of the bill would authorize drug courts to impose, based on a defendant's ability to pay, additional local fees to support the programs. Judges, magistrates, or program administrators would have the discretion to allow defendants to pay the fees on a periodic basis or on a deferred payment schedule.

Section 6 of the bill would amend Chapter 102, Subchapter A of the Code of Criminal Procedure to impose a new court cost of \$50 on the conviction of certain intoxication and drug offenses to be used to fund drug courts. The State would receive 50 percent of the \$50 fee, to be used to help fund drug court programs established under Chapter 469 of the Health and Safety Code. The annual gain to the State would be \$1,161,000 in General Revenue-Dedicated Funds in fiscal year 2008 and \$2,823,000 in fiscal year 2009. Counties and municipalities would be allowed to retain 40 percent of the revenue to fund the development and maintenance of drug courts, and an additional 10 percent as a collection fee, if the county or municipality keeps record of the total amount collected and remits 50 percent of total collections from this fee, on a quarterly basis, to the Comptroller. The Comptroller would be required to deposit and credit the funds to the newly created General Revenue-Dedicated Account—Drug Courts. The bill would direct the Legislature to appropriate revenue in the account to the Criminal Justice Division of the Governor's Office for distribution to applicable drug court programs. The bill would authorize the auditing of the court cost collections by the Comptroller.

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 drug court or other problem-solving court programs.

Finally, section 7 of the bill would make a conforming amendment to Subchapter B, Chapter 102 of the Government Code to revise the informational listing of court costs.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The new court cost would not apply to offenses, in part or whole, committed before the effective date.

Methodology

Currently, there are nine counties that fit the requirement of a population greater than 550,000. If the population threshold were reduced to over 200,000 people, 12 additional counties would be required to operate drug courts under this bill according to 2005 US Censes Bureau population estimates. This would bring the total number of counties in Texas statutorily required to have drug courts up to 21.

The nondisclosure provision for certain offender populations, including those served in drug courts, would place the state out of compliance and would jeopardize highway funds under federal law, 23 USC 159. The loss of federal highway funds to the state amount to approximately \$142.2 million in fiscal year 2008 and \$144.5 million in fiscal year 2009.

The loss in federal funds is based on a penalty of 10 percent of certain funds apportioned to the state. The Texas Department of Transportation estimates that Texas' fiscal year 2008 federal apportionment at \$1,421,854,688 and \$1,444,779,989 for fiscal year 2009. If the provisions of the bill relating to nondisclosure were implemented, it is estimated that Texas could lose approximately \$142 million in federal highway funds per year.

The annual revenue gain to the state was based on data from the Annual Statistical Report for the Texas Judiciary-Fiscal 2006 data on the number of convictions and deferred adjudications in three categories (Drug Sale or Manufacture, Drug Possession, and Felony D.W.I.). The total number of convictions is multiplied by the \$50 fee, multiplied by 50% (counties retain 50%), and multiplied by a collection rate of 60% for court costs as estimated by the Comptroller. In the first year, only 10 months will be collected because counties remit to the state each calendar quarter. This is reflected in the fiscal year 2008 revenue gain.

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. The additional revenues generated by the bill would allow the 21 courts to be funded at a higher level per court than is currently provided for the mandated courts.

Local Government Impact

Local governments will see an increase in revenue due to the new \$50 court cost. This revenue may be used to develop and maintain the drug court programs or other problem-solving courts as defined in Chapter 469 of the Health and Safety Code. However, the fiscal impact may vary by county depending on whether or not the county elects to use these funds for the development or maintenance of drug courts. Assuming all counties elect to operate a drug court and retain the 50 percent of the fee that they are entitled to for the purposes outlined in the bill, they will see an equal amount of revenue gain as the state from this new \$50 court cost. The annual local fiscal impact is estimated to be \$1,161,000 in fiscal year 2008 and \$2,823,000 in fiscal year 2009.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 696 Department of Criminal Justice

LBB Staff: JOB, ES, JI, YD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

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

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB530, As Introduced: a positive impact of \$1,835,299 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$834,681
2009	\$1,000,618
2010	\$1,000,618
2011	\$1,000,618
2012	\$1,000,618

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2008	\$834,681
2009	\$1,000,618
2010	\$1,000,618
2011	\$1,000,618
2012	\$1,000,618

Fiscal Analysis

This bill would amend Chapter 469 of the Health and Safety Code to expand the definition of drug courts to allow other types of problem-solving courts to be established. These new problem-solving courts would include, but would not be limited to, juvenile drug courts, reentry drug courts, and family dependency drug courts. Currently, only counties have the authority to establish drug courts, the bill would also authorize municipalities to establish said programs.

The bill would establish the conditions and procedures for defendants' entry into drug court programs and the final disposition of cases. The bill would lower the population threshold for requiring the establishment of drug court programs in certain counties, provided those counties received federal or state funding for the programs. Currently, drug court programs are only mandatory in counties with a population over 550,000. This bill would reduce that threshold to more than 200,000 people as

provided in section 5.

Section 1 of the bill states that courts shall enter an order of nondisclosure under Government Code 411.081 with respect to all records and files related to defendant's arrest for the offense for which the defendant entered the drug court program if the defendant: 1) has not been previously convicted of a felony; 2) does not get arrested for another felony offense in the two years after the completion of the drug court program.

This amendment would allow anyone who has completed a drug court program to have the court enter an order of nondisclosure for all records relating to the offense that made them eligible for the drug court program. Under 469.002, drug court programs may include drug courts for persons arrested for, charged with, or convicted of an offense in which an element of the offense is the use or possession of a controlled substance, or marihuana. Therefore, a person convicted of possession of a controlled substance or marihuana can be placed in the drug court program and upon completion of the program (if they have no prior felony or get convicted of a felony within 2 years), the person is eligible for the order of nondisclosure under 469.001(c).

Section 4 of the bill would authorize drug courts to impose, based on a defendant's ability to pay, additional local fees to support the programs. Judges, magistrates, or program administrators would have the discretion to allow defendants to pay the fees on a periodic basis or on a deferred payment schedule.

Section 6 of the bill would amend Chapter 102, Subchapter A of the Code of Criminal Procedure to impose a new court cost of \$50 on the conviction of certain intoxication and drug offenses to be used to fund drug courts. The State would receive 50 percent of the \$50 fee, to be used to help fund drug court programs established under Chapter 469 of the Health and Safety Code. The annual gain to the State would be \$1,001,618 in General Revenue Funds. Counties and municipalities would be allowed to retain 40 percent of the revenue to fund the development and maintenance of drug courts, and an additional 10 percent as a collection fee, if the county or municipality keeps record of the total amount collected and remits 50 percent of total collections from this fee, on a quarterly basis, to the Comptroller. The Comptroller would be required to deposit and credit the funds to the newly created General Revenue Account—Drug Court. The bill would direct the Legislature to appropriate revenue in the account to the Criminal Justice Division of the Governor's Office for distribution to applicable drug court programs. The bill would authorize the auditing of the court cost collections by the Comptroller.

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 drug court or other problem-solving court programs.

Finally, section 7 of the bill would make a conforming amendment to Subchapter B, Chapter 102 of the Government Code to revise the informational listing of court costs.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007. The new court cost would not apply to offenses, in part or whole, committed before the effective date.

Methodology

Currently, there are nine counties that fit the requirement of a population greater than 550,000. If the population threshold were reduced to over 200,000 people, 12 additional counties would be required to operate drug courts under this bill according to 2005 US Censes Bureau population estimates. This would bring the total number of counties in Texas statutorily required to have drug courts up to 21.

The nondisclosure provision for certain offender populations, including those served in drug courts, would place the state out of compliance and would jeopardize highway funds under federal law, 23 USC 159. The loss of federal highway funds to the state amount to approximately \$142.2 million in fiscal year 2008 and \$144.5 million in fiscal year 2009.

The loss in federal funds is based on a penalty of 10 percent of certain funds apportioned to the state. The Texas Department of Transportation estimates that Texas' fiscal year 2008 federal apportionment at \$1,421,854,688 and \$1,444,779,989 for fiscal year 2009. If the provisions of the bill relating to nondisclosure were implemented, it is estimated that Texas could lose approximately \$142 million in federal highway funds per year.

The annual revenue gain of \$1,001,618 to the state was based on fiscal year 2005 data on the number of convictions and deferred adjudications in three categories (Drug Sale or Manufacture, Drug Possession, and Felony D.W.I.). The Office of Court Administration (OCA) estimates this number to be 61,638. The total number of convictions is multiplied by the \$50 fee, multiplied by 50% (counties retain 50%), and multiplied by a collection rate of 65% for court costs as estimated by the OCA. In the first year, only 10 months will be collected because counties remit to the state each calendar quarter.

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. The additional revenues generated by the bill would allow the 21 courts to be funded at a higher level per court than is currently provided for the mandated courts.

Local Government Impact

Local governments will see an increase in revenue due to the new \$50 court cost. This revenue may be used to develop and maintain the drug court programs or other problem-solving courts as defined in Chapter 469 of the Health and Safety Code. However, the fiscal impact may vary by county depending on whether or not the county elects to use these funds for the development or maintenance of drug courts. Assuming all counties elect to operate a drug court and retain the 50 percent of the fee that they are entitled to for the purposes outlined in the bill, they will see an equal amount of revenue gain as the state from this new \$50 court cost. The annual local fiscal impact is estimated to be \$1,001,618.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 696 Department of Criminal Justice

LBB Staff: JOB, ES, JI, YD

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.),
Committee Report 2nd House, Substituted

The bill would amend the Health and Safety Code regarding the expansion and definition of drug courts. The bill could result in reduced prison and state jail populations depending on the number of offenders diverted from prison or state jail as a result of participating in drug court programs.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill which authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.), **As Engrossed**

The bill would amend the Health and Safety Code regarding the expansion and definition of drug courts. The bill could result in reduced prison and state jail populations depending on the number of offenders diverted from prison or state jail as a result of participating in drug court programs.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill which authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

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

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.),
Committee Report 1st House, Substituted

The bill would amend the Health and Safety Code regarding the expansion and definition of drug courts. The bill could result in reduced prison and state jail populations depending on the number of offenders that are diverted from prison or state jail as a result of participating in drug court programs.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

February 25, 2007

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

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

IN RE: HB530 by Madden (Relating to the operation and funding of drug court programs.), **As Introduced**

The bill would amend the Health and Safety Code regarding the expansion and definition of drug courts. The bill could result in reduced prison and state jail populations depending on the number of offenders that are diverted from prison or state jail as a result of participating in drug court programs.

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

