

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Madden

H.B. No. 3200

A BILL TO BE ENTITLED

AN ACT

relating to funding for community supervision and corrections departments.

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

SECTION 1. Section 509.011, Government Code, is amended by amending Subsections (a) and (e) and adding Subsections (i) and (j) to read as follows:

(a) If the division determines that a department complies with division standards and if the community justice council has submitted a community justice plan under Section 76.003 and the supporting information required by the division and the division determines the plan and supporting information are acceptable, the division shall prepare and submit to the comptroller vouchers for payment to the department as follows:

(1) for per capita funding, a per diem amount for:

(A) each felony defendant placed on community supervision and ~~directly~~ supervised by the department pursuant to lawful authority; and

(B) each felony defendant participating in a pretrial program and supervised by the department pursuant to lawful authority;

(2) for per capita funding, a per diem amount for a period not to exceed 182 days for each misdemeanor defendant placed on community supervision and supervised by the department pursuant

1 to lawful authority [~~other than a felony defendant~~]; and

2 (3) for formula funding, an annual amount as computed  
3 by multiplying a percentage determined by the allocation formula  
4 established under Subsection (f) times the total amount provided in  
5 the General Appropriations Act for payments under this subdivision.

6 (e) In establishing the per capita funding formula under  
7 Subsection (i) [~~per diem payments authorized by Subsections (a)(1)~~  
8 ~~and (a)(2)]~~, the division shall consider the amounts appropriated  
9 in the General Appropriations Act for basic supervision as  
10 sufficient to provide basic supervision in each year of the fiscal  
11 biennium.

12 (i) The division annually shall establish a per capita  
13 funding formula to determine the percentage of the total amount  
14 provided in the General Appropriations Act for payments to  
15 departments that each department is entitled to receive as per  
16 capita funding under Subsections (a)(1) and (2). With reference to  
17 funding distributed under Subsection (a)(1)(A), the formula must  
18 include:

19 (1) higher per capita rates for those felony  
20 defendants supervised by a department who are serving the early  
21 years of a term of community supervision than for those felony  
22 defendants who are serving the end of a term of community  
23 supervision;

24 (2) penalties in per capita funding with respect to  
25 each felony defendant supervised by a department whose community  
26 supervision is revoked due to a technical violation of an  
27 applicable condition of community supervision; and

1           (3) awards in per capita funding with respect to each  
2 felony defendant supervised by a department who is discharged  
3 following an early termination of community supervision under  
4 Section 5 or Section 20, Article 42.12, Code of Criminal Procedure,  
5 as applicable.

6           (j) The board by rule may adopt a policy limiting the  
7 percentage of benefit or loss a department may realize as a result  
8 of the operation of the per capita funding formula established  
9 under Subsection (i).

10           SECTION 2. Section 19, Article 42.12, Code of Criminal  
11 Procedure, is amended by amending Subsections (a) and (b) and  
12 adding Subsection (g) to read as follows:

13           (a) Except as otherwise provided by this subsection, a judge  
14 granting community supervision shall fix a fee of not less than \$25  
15 and not more than \$60 per month to be paid during the period of  
16 community supervision by the defendant to the court of original  
17 jurisdiction or, in the case of an intrastate transfer described by  
18 Section 10(b) of this article, to the court to which jurisdiction of  
19 the defendant's case is transferred [~~by the defendant during the~~  
20 ~~community supervision period~~]. The judge may make payment of the  
21 fee a condition of granting or continuing the community  
22 supervision. The judge may waive or reduce the fee or suspend a  
23 monthly payment of the fee if the judge determines that payment of  
24 the fee would cause the defendant a significant financial hardship.

25           (b) A [~~The~~] judge shall deposit any fee [~~the fees~~] received  
26 under Subsection (a) of this section in the special fund of the  
27 county treasury, to be used for the same purposes for which state

1 aid may be used under Chapter 76, Government Code.

2 (g) A court to which jurisdiction of a defendant's case is  
3 transferred under Section 10(b) of this article shall enter an  
4 order directing the defendant to pay the monthly fee described by  
5 Subsection (a) of this section to that court in lieu of paying the  
6 monthly fee to the court of original jurisdiction. To the extent of  
7 any conflict between an order issued under this subsection and an  
8 order issued by a court of original jurisdiction, the order entered  
9 under this subsection prevails.

10 SECTION 3. (a) Not later than January 1, 2008, the  
11 community justice assistance division of the Texas Department of  
12 Criminal Justice shall establish the per capita funding formula  
13 described by Section 509.011(i), Government Code, as added by this  
14 Act, that is to be used for the state fiscal year beginning  
15 September 1, 2008.

16 (b) Sections 509.011(a) and (e), Government Code, as  
17 amended by this Act, and Sections 509.011(i) and (j), Government  
18 Code, as added by this Act, apply to appropriations made for any  
19 state fiscal year beginning on or after September 1, 2008.

20 SECTION 4. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2007.

on 3rd

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2007

BY:

Whitman

Atty Gen  
Secretary of the Senate

1 Amend H.B. No. 3200 by adding the following appropriately  
2 numbered SECTIONS to the bill and renumbering subsequent  
3 SECTIONS of the bill accordingly:

4 SECTION \_\_. Section 508.283, Government Code, is amended  
5 by amending Subsections (a) and (e) and adding Subsections (e-  
6 1), (f), (g), and (h) to read as follows:

7 (a) After a parole panel or designated agent of the board  
8 has held a hearing under Section 508.281, in any manner  
9 warranted by the evidence:

10 (1) the board may recommend to the governor to  
11 continue, revoke, or modify the conditional pardon; and

12 (2) except as provided by Subsection (g), a parole  
13 panel may continue, revoke, or modify the parole or mandatory  
14 supervision.

15 (e) If a person's parole or mandatory supervision is  
16 modified after it is established that the person violated  
17 conditions of release, the parole panel [~~board~~] may require the  
18 releasee to remain under custodial supervision in a county jail  
19 for a period of not less than 60 days or more than 180 days.  
20 The parole panel may require a person to remain under custodial  
21 supervision under this subsection each time the board modifies  
22 the person's parole or mandatory supervision.

23 (e-1) A sheriff is required to accept an inmate sanctioned  
24 under Subsection (e) [~~this subsection~~] only if the commissioners  
25 court of the county in which the sheriff serves and the Texas  
26 Department of Criminal Justice have entered into a contract  
27 providing for the housing of persons sanctioned under this  
28 subsection.

29 (f) If a person's parole or mandatory supervision is

1  
5

1 modified and the parole panel requires the person to serve a  
2 term of confinement and treatment in a substance abuse treatment  
3 facility operated under Section 493.009 as a condition of the  
4 modification, the term must be not less than 180 days and not  
5 more than one year. This subsection does not apply to a sex  
6 offender or an inmate under super-intensive supervision parole  
7 under Section 508.317(d).

8 (g) Except as provided by Subsection (h), a parole panel  
9 may not revoke a person's parole or mandatory supervision under  
10 this section if the person committed only an administrative  
11 violation of a condition of release.

12 (h) A parole panel may revoke a person's parole or  
13 mandatory supervision under this section if the person:

14 (1) has failed to report to the parole officer  
15 supervising the person for a period of at least one year; or

16 (2) is arrested outside of this state on a warrant  
17 issued under Section 508.251.

18 SECTION \_\_. Subchapter I, Chapter 508, Government Code, is  
19 amended by adding Section 508.285 to read as follows:

20 Sec. 508.285. SANCTION: CONFINEMENT IN INTERMEDIATE  
21 SANCTION FACILITY. (a) After a hearing under Section 508.281,  
22 if a parole panel modifies a person's parole or mandatory  
23 supervision because the person violated the person's conditions  
24 of release, the panel may require the person to remain under  
25 custodial supervision in an intermediate sanction facility  
26 operated by or under contract with the department for a term of  
27 not less than 60 days or more than one year. This subsection  
28 does not apply to a sex offender or an inmate under super-  
29 intensive supervision parole under Section 508.317(d).

30 (b) A parole panel may require a person to remain under  
31 custodial supervision as described by Subsection (a) each time

7  
6

1 the panel modifies the person's parole or mandatory supervision.

2 SECTION \_\_. The change in law made by Section 508.283,  
3 Government Code, as amended by this Act, and Section 508.285,  
4 Government Code, as added by this Act, applies only to a  
5 determination by a parole panel made on or after the effective  
6 date of this Act. A determination made before the effective  
7 date of this Act is covered by the law in effect on the date the  
8 determination was made, and the former law is continued in  
9 effect for that purpose.

on 3rd

# ADOPTED

FLOOR AMENDMENT NO. 2

MAY 23 2007  
BY: Whitmore  
Lotay Spaw  
Secretary of the Senate

1 Amend Floor Amendment No. 1 to House Bill No. 3200 by  
2 striking on page 2, line 15 the word "or" and adding on page 2,  
3 line 17 "; or". The following is added to Subsection (h):  
4 (3) has previously committed an administrative violation  
5 and has been confined under Subsection (f) or under Sec.  
6 508.285, Government Code.

8  
A



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

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

**May 17, 2007**

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

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

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

The probable impact of the bill cannot be determined due to the unavailability of information related to the adoption of the policy by the Community Justice Assistance Division of the Department of Criminal Justice limiting the percentage of benefit or loss local Community Supervision and Corrections Departments could realize as a result of the operation of the per capita funding formula established under this proposal.

The bill would amend the Government Code by establishing a new funding formula for basic supervision probation for the community justice assistance division (CJAD) of the Texas Department of Criminal Justice (TDCJ). The bill would provide for developing a funding formula calculated based on a per diem amount for each offender on felony probation (as opposed to funding direct supervision felony probationers), funding for felons being supervised in pre-trial diversions programs, and misdemeanor defendants placed on community supervision funding for no longer than 182 days of supervision (limited to \$.70 per day). The bill further specifies that in establishing the per capita funding formula, the CJAD would consider the amounts appropriated in the General Appropriations Act for basic supervision to be sufficient to provide basic supervision for each fiscal year in the biennium. Establishing the funding formula would include the following weights which only apply to felony probationers:

- 1) higher per capita rates for those defendants supervised by a department who are serving the early years of a term of community supervision than for those defendants who were serving the end of the term of community supervision;
- 2) penalties in per capital funding with respect to each defendant supervised by a department whose community supervision is revoked due to a technical violation of an applicable condition of community supervision; and
- 3) awards in per capita funding with respect to each felony defendant supervised by a department who is discharged following an early termination of community supervision.

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

The bill provides that the new funding formula would be established by January 1, 2008 and implemented for the state fiscal year beginning in September 1, 2008. CJAD has estimated that the fiscal impact on the funding allocation to the community supervision and corrections departments (CSCDs) could be approximately \$10.0 million in fiscal year 2008 and \$11.4 million in fiscal year 2009. This calculation includes the amount of funding necessary to protect CSCDs from potential financial losses as a result of the bill, \$4.2 million in each fiscal year. The impact to account for the projected loss of offender fees is estimated to be \$5.8 million in fiscal year 2008 and \$7.2 million in

fiscal year 2009. However, the bill provides that the board may adopt a policy limiting loss or gain as a result of the operation of the new formula. It is unknown how much loss or gain the board would allow as a result of the new formula, therefore, at this time, the impact of the proposal to the CSCDs is unknown.

### **Local Government Impact**

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

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

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

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

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

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

**April 19, 2007**

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

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

**IN RE: HB3200** by Madden (Relating to the computation of certain funding for community supervision and corrections departments. ) ,**Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3200, Committee Report 1st House, Substituted: a negative impact of (\$21,432,144) through the biennium ending August 31, 2009.

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

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$9,995,592)
2009	(\$11,436,552)
2010	(\$11,436,552)
2011	(\$11,436,552)
2012	(\$11,436,552)

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

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$9,995,592)
2009	(\$11,436,552)
2010	(\$11,436,552)
2011	(\$11,436,552)
2012	(\$11,436,552)

**Fiscal Analysis**

The bill would amend the Government Code by establishing a new funding formula for basic supervision probation for the community justice assistance division (CJAD) of the Texas Department of Criminal Justice (TDCJ). The bill would provide for funding mechanisms for funding calculated at placements for felony probationers (as opposed to funding direct felony probationers), funding for felons being supervised in pre-trial diversions programs, misdemeanor funding for 182 days of supervision (limited to \$.70 per day), and funding for community correction programs calculated as current policy allows. The bill further specifies that in establishing the new funding formula, the CJAD would include the following weights which only apply to felony probationers:

- 1) higher per capita rates for those defendants supervised by a department who were serving the early years of a term of community supervision than for those defendants who were serving the end of the term of community supervision;
- 2) penalties in per capital funding with respect to each defendant supervised by a department whose community supervision is revoked due to a technical violation of an applicable condition of community supervision; and

- 3) awards in per capita funding with respect to each felony defendant supervised by a department who was discharged following an early termination of community supervision.

Finally, the bill would authorize the Texas Board of Criminal Justice to adopt a policy limiting the percentage of benefit or loss a department could realize as a result of the operation of the per capita funding formula established under this measure.

### **Methodology**

The fiscal impact on the funding allocation to the community supervision and corrections departments (CSCDs) is estimated to be approximately \$10.0 million in fiscal year 2008 and approximately \$11.4 million in fiscal year 2009. This calculation includes the amount of funding necessary to protect CSCDs from potential financial losses as a result of the bill (\$4.2 million in each fiscal year), and to account for the projected loss of offender fees, \$5.8 million in fiscal year 2008 and \$7.2 million in fiscal year 2009.

### **Local Government Impact**

Funding to individual community supervision and corrections departments would depend on the formula developed by the division. The funding formula impacts local community supervision and corrections departments (CSCDs) diversely because of different sentencing patterns, crime patterns, demographics, and different types of offenders on probation.

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

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

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

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

April 9, 2007

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

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

**IN RE: HB3200** by Madden (Relating to the computation of certain funding for community supervision and corrections departments.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3200, As Introduced: a negative impact of (\$21,432,144) through the biennium ending August 31, 2009.

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

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$9,995,592)
2009	(\$11,436,552)
2010	(\$11,436,552)
2011	(\$11,436,552)
2012	(\$11,436,552)

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

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$9,995,592)
2009	(\$11,436,552)
2010	(\$11,436,552)
2011	(\$11,436,552)
2012	(\$11,436,552)

**Fiscal Analysis**

The bill would amend the Government Code by establishing a new funding formula for basic supervision probation for the Community Justice Assistance Division (CJAD) of the Texas Department of Criminal Justice (TDCJ). The bill would collapse the funding mechanisms for per capita funding for felony probationers, misdemeanor probationers, and pre-trial defendants into one funding formula. The bill further specifies that in establishing the new funding formula, the CJAD would include the following:

- 1) Higher per capita rates for those defendants supervised by a department who were serving the early years of a term of community supervision than for those defendants who were serving the end of the term of community supervision;
- 2) Penalties in per capita funding with respect to each defendant supervised by a department whose community supervision was revoked due to a technical violation of an applicable condition of community supervision; and
- 3) Awards in per capita funding with respect to each felony defendant supervised by a department who was discharged following an early termination of community supervision.

The first two factors would be applicable to both misdemeanor and felony probated cases, the third factor would apply only to felony probated cases. Under the present funding formula, state funding for misdemeanor cases is limited to 182 days. The bill would authorize funding for the duration of the term of the misdemeanor case. Current policy includes that CJAD award funding to departments on a biennial basis, however the bill would require CJAD to develop a new funding formula each year.

Finally, the bill would authorize the Texas Board of Criminal Justice to adopt a policy limiting the percentage of benefit or loss a department could realize as a result of the operation of the per capita funding formula established under this measure.

### **Methodology**

The fiscal impact on the funding allocation to the community supervision and corrections departments (CSCDs) is estimated to be approximately \$10.0 million in fiscal year 2008 and approximately \$11.4 million in fiscal year 2009. This calculation includes the amount of funding to hold CSCDs harmless, \$4.2 million in each fiscal year and to account for the projected loss of offender fees, \$5.8 million in fiscal year 2008 and \$7.2 million in fiscal year 2009.

### **Local Government Impact**

Funding to individual community supervision and corrections departments would depend on the formula developed by the division. The funding formula impacts local community supervision and corrections departments (CSCDs) diversely because of different sentencing patterns, crime patterns, demographics, and different types of offenders on probation.

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

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

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

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**May 16, 2007**

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

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

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

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, TM

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

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**April 18, 2007**

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

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

**IN RE: HB3200** by Madden (Relating to the computation of certain funding for community supervision and corrections departments. ), **Committee Report 1st House, Substituted**

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, LM



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

April 7, 2007

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

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

**IN RE: HB3200** by Madden (Relating to the computation of certain funding for community supervision and corrections departments.), **As Introduced**

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, LM