

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 3, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB2789 by Miller, Doug (Relating to creating a presumption regarding the possession of a controlled substance by a person who gives birth to a child who tests positive for the substance.), **As Introduced**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the number of people who give birth to a child who tests positive for a controlled substance listed in Penalty Group 1.

The bill would amend the Health and Safety Code to make giving birth to a child who tests positive for certain controlled substances within 72 hours of birth a rebuttable presumption that the person possessed less than one gram of that controlled substance within 30 days preceding the birth in the county of the birth. Possession of less than one gram of a controlled substance listed in Penalty Group 1 is punishable as a state jail felony.

The bill would take effect on September 1, 2009 and would apply to an offense committed on or after the effective date.

A check of Texas Department of Criminal Justice records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding the number of people who give birth to a child who tests positive for a controlled substance listed in Penalty Group 1; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

The probable impact on local government cannot be determined due to the unavailability of reliable data or information related to the number of people who give birth to a child who tests positive for a controlled substance listed in Penalty Group 1.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, TMP