

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

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

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

IN RE: SB1118 by Ellis (Relating to community supervision for certain drug possession offenses and to a person's eligibility for an order of nondisclosure following a term of community supervision for any of those offenses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1118, As Introduced: a positive impact of \$34,616,390 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$14,240,575
2011	\$20,375,815
2012	\$24,745,851
2013	\$28,505,080
2014	\$31,716,952

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	\$14,240,575
2011	\$20,375,815
2012	\$24,745,851
2013	\$28,505,080
2014	\$31,716,952

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and Government Code relating to community supervision for certain drug possession offenses. The bill would require a judge to suspend the imposition of a sentence and place a defendant on community supervision for certain drug possession offenses. The bill would also specify conditions in which the judge would not be required to suspend the sentence and place a defendant on community supervision. A court granting community supervision as a result of the bill would require as a condition of community supervision that the defendant submit to an evidence-based risks and needs screening and evaluation procedure and, based on the evaluation, participate in a prescribed course of treatment in a program or facility and pay a fee to cover all or part of the cost of the treatment based on the defendant’s ability to pay. The bill would specify revocation conditions for a defendant’s violation of the terms of community supervision relating to the revocation of supervision.

The defendant would be required to pay a fee to cover all or part of the cost of the treatment based on

the defendant's ability to pay.

The bill would also require the Texas Department of Criminal Justice (TDCJ) to study and report to the Legislature on the effectiveness and financial impact to the state of the bill.

Methodology

For fiscal year 2008, approximately 13,300 admissions to prison and state jail were for drug possession offenses punishable as a felony of the third degree or lower. The bill specifies a number of conditions in which the judge would not be required to suspend the sentence and place a defendant on community supervision. After excluding ineligible drug possession offenses, admissions with prior convictions of a felony offense other than drug possession, parole revocations for the current offense, community supervision revocations for the current offense, and those released on shock probation, 2,285 admissions would be affected by the provisions of the bill. For this analysis, it is assumed 70 percent are state jail admissions and 30 percent are prison admissions.

In order to estimate the future impact of the proposal, the changes proposed for admission policy are applied in a simulation model, to (1) state jail admissions that reflect the distribution of offenses, sentence lengths, and time served, (2) prison admissions that reflect the distribution of offenses, sentence lengths, and time served. The analysis also includes an increased felony community supervision population reflecting the provision of the bill that requires suspension of the sentence and placement on community supervision.

Incarceration savings by the Department of Criminal Justice are estimated on the basis of \$40.12 per state jail inmate per day for state jail facilities, and \$47.50 per prison inmate per day reflecting approximate costs of either operating facilities or contracting with other entities. The bill also specifies that a court granting community supervision shall require as a condition of community supervision that the defendant participate in a drug treatment program licensed or approved by the Department of State Health Services. Defendants would be required to pay a fee to cover all or part of the cost of the program based on the defendant's ability to pay. For this analysis it is assumed that half of the defendants would be able to pay for drug treatment and the state would pay the daily rate of \$5.56 reflecting the cost of non-residential treatment alternatives to incarceration program for the probationers unable to pay their drug treatment program fees. Savings could be further offset based on the frequency with which residential substance abuse treatment may be required and duration for which the offender is required to stay in residential substance abuse treatment. Also included in the costs is the daily community supervision cost of \$2.76 per day for the increased community supervision population as a result of the bill.

The Texas Department of Criminal Justice indicated no significant cost for preparing a study and report to the Legislature on the effectiveness and financial impact to the state of the bill.

Local Government Impact

Since the bill would result in increased community supervision populations, local government would be responsible for part of the supervision cost and potentially part of the treatment cost of defendants that would under current law be incarcerated in prison and state jails. Fees paid by defendants on community supervision could offset the cost of the increased community supervision populations.

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

LBB Staff: JOB, ESi, GG, TMP, LM