

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 28, 2011

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

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

IN RE: HB1113 by Raymond (Relating to the sentencing hearing or deferred adjudication hearing and conditions of community supervision for defendants convicted of certain offenses involving controlled substances.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1113, As Introduced: a negative impact of (\$631,384) through the biennium ending August 31, 2013.

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
2012	(\$315,692)
2013	(\$315,692)
2014	(\$315,692)
2015	(\$315,692)
2016	(\$315,692)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2012	(\$315,692)
2013	(\$315,692)
2014	(\$315,692)
2015	(\$315,692)
2016	(\$315,692)

The bill would amend the Code of Criminal Procedure to require each court that handles criminal cases to hold sentencing hearings or deferred adjudication hearings in drug cases at a secondary school at least 12 times per year under certain conditions, assuming that the court has a sufficient number of such cases. In each case, the hearings would require a judge, court clerk, court reporter, bailiff, and prosecutor. Taking the active judge away from his or her regular courtroom to handle these cases would decrease court productivity, and the impact would be greater in counties with multiple courts. The bill is expected to have negative fiscal implications for the state court system due to the use of visiting judges to handle active judge(s) regular docket on those day(s) in which drug-related hearings are being held in secondary schools. The bill would take effect September 1, 2011.

Fiscal Analysis

This analysis assumes that visiting judges would be assigned the regular dockets of active judges on those days on which judges would be conducting drug court hearings at secondary schools in the judicial regions for the state's 456 district courts, resulting in an estimated cost to General Revenue of \$315,692 per fiscal year.

Methodology

The provisions of the legislation would result in each of the state's 456 district courts conducting as many as 12 drug-related hearings per year in secondary schools or a total of 5,472 drug case hearings in secondary schools per year (12 hearings per court x 456 district courts = 5,472). Assuming that only 60 percent of the 5,472 hearings take place under bill provisions, either because 1) any particular court is not assigned a sufficient number of drug cases; or, 2) fewer than 12 defendants agree to a proceeding at a secondary school, a total of 3,283 hearings would be held at secondary schools. This analysis assumes that 3,283 hearings held at secondary schools would equate for an active judge's having a day away from handling all other cases on the judge's docket, triggering a need for visiting judge services in 20 percent of such days, or 657 days of visiting judge service (3,283 x 20%=657). The prorated daily pay for a visiting judge is assumed to be \$480.77 per day (\$125,000 in annual compensation/260 workdays=\$480.77 daily rate). With these assumptions, annual costs to the visiting judge program would be \$315,692 per fiscal year (\$480.77*657 days of visiting judge service=\$315,692).

Local Government Impact

According to the Texas Association of Counties (TAC), there would be additional costs to local governments for security due to holding court on school grounds, including having a deputy on hand to oversee security concerns. These costs would vary by county.

TAC also reported costs associated with holding hearings outside of the normal court schedule, which would be necessary in order to keep the court's regular docket from falling behind schedule. Additional costs would include set up and support for court operations, as well as costs associated with court reporting. These costs would vary by county.

TAC also expressed concern that some hearings would be held at schools that are in different towns than a given court is located; this would provide additional costs associated with transportation as well as an additional amount of time an appointed attorney must spend in transit.

The Office of Court Administration reported that there are 487 constitutional courts and county courts at law; except for smaller counties (which would not have enough cases) each of these courts would be required to hold 12 hearings per year. TAC estimates that each hearing under the provisions of the bill would cost \$500, which would total \$2.9 million in local costs statewide associated with the bill.

According to the Texas Education Agency school districts would experience varying costs related to the accommodation of hearings, depending on the number and length, if defendants agree to have them conducted at a secondary campus.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 701 Central Education Agency

LBB Staff: JOB, ESi, ZS, TB, LXH, KKR