

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 15, 2011**

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

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

**IN RE: HB2019** by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed by a local entity that establishes a program are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments and community supervision and corrections departments.

The bill would authorize the lieutenant governor and the speaker of the house of representatives to assign oversight duties of the programs to appropriate legislative committees. A legislative committee or the governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter.

A pretrial victim-offender mediation program would be authorized to collect from the defendant, a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality.

The bill would amend Subchapter B, Chapter 102 of the Government Code to include language to conform to the provisions of Subchapter A-1 of the Code of Criminal Procedure.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house. If the bill does not receive the votes required to pass, the bill would take effect September 1, 2011.

According to the Office of the Attorney General, the provisions of the bill are not anticipated to have a significant impact on the agency's workload.

According to the State Auditor's Office (SAO), because the bill authorizes a new requirement, the SAO assumes there would not be a request from a legislative committee or the Governor for an audit of these programs during fiscal years (FY) 2012 and 2013. The analysis further assumes that the SAO would receive one request for an audit of one program in one county during FY 2014 and one request in FY 2016. The estimated time for each audit would be 1,500 hours and, using the SAO's billing rate of \$92 per hour the cost would be \$152,400 (inclusive of \$14,400 travel expenses). SAO reported the

cost to the SAO are not significant and could be absorbed within the existing budget.

### **Local Government Impact**

There would be a revenue gain to local governments if each eligible local government established a pretrial victim-offender mediation program. The fiscal impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government established a pretrial victim-offender mediation program. It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

According to the Comptroller of Public Accounts (CPA), three counties reported there would be costs to establish a pretrial victim-offender mediation program and additional revenue gain. All three counties' fiscal year (FY) begins October 1. FY 2011 estimates have been adjusted to reflect the effective date of the bill.

Bexar County estimated \$2,922,917 in additional costs from FY 2011 to 2016 to implement the program. The county could not determine if they would require additional full-time employees to implement the program. Bexar County estimates \$4,571,569 in total fee revenue from FY 2011 to 2016 as a result of the program, which would result in a net revenue gain of \$1.6 million to the county for the six-year period.

Bell County estimated \$1,349,731 in additional costs from FY 2011 to 2016 to implement the program. The county anticipates a need for two additional full-time employees with a combined salary and benefit costs of \$126,157 per fiscal year plus other operating expenses. Bell County estimated \$1,350,200 in total fee revenue from FY 2011 to 2016 as a result of the program, which would result in a net revenue gain of \$469 to the county for the six-year period.

Burnet County estimated \$345,667 in additional costs from FY 2011 to 2016 to implement the program. The county anticipates a need for two additional full-time employees with a combined salary and benefit costs of \$68,000 per fiscal year. Burnet County estimated \$110,038 in total fee revenue from FY 2011 to 2016 as a result of the program, which would result a net cost of \$235,629 to the county for the six-year period.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, TP, LM, JJO, TB