

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 25, 2011

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

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

IN RE: **HB3386** by Madden (Relating to the supervision of certain people convicted of a criminal offense and to the organization and operation of certain correctional entities.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3386, Committee Report 1st House, Substituted: a positive impact of \$17,262,347 through the biennium ending August 31, 2013.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$9,738,448
2013	\$7,523,899
2014	\$7,806,764
2015	\$8,320,018
2016	\$8,629,870

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue Gain from Crime Victims Comp Acct 469
2012	\$2,032,648	\$7,705,800	\$2,916,000
2013	\$1,744,549	\$5,779,350	\$2,916,000
2014	\$2,027,414	\$5,779,350	\$2,916,000
2015	\$2,540,668	\$5,779,350	\$2,916,000
2016	\$2,850,520	\$5,779,350	\$2,916,000

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to create an alternative revocation procedure for certain felony offenders that have violated conditions of community supervision, to permit a court to revoke a person's community supervision and dispose of the case as if there had been no community supervision, and require the offender to serve the term of imprisonment that was originally assessed. Court jurisdiction would continue for 365 days and the court could suspend the sentence and return the offender to community supervision after the 330th day and before the 365th day of the sentence. The bill would amend Sections 495, 499, and 501 of the Government Code, to: change the allowable rate of pay telephone usage for inmates; to establish an inmate package program through which families and friends of inmates could purchase items from an approved vendor for delivery to inmates; to add provisions regarding TDCJ policies designed to manage inmate population based on similar health conditions; to require inmates to pay a \$100 health care services fee; to permit TDCJ to establish an adult education program; and to require TDCJ to provide certain over-the-counter medications to

offenders through commissary operations and do so at no cost if the inmate is indigent. TDCJ, BPP, and health care providers would be required to develop and implement a plan to temporarily release an offender who requires medical care that is significantly more expensive than care that is typically provided, so that the offender may be treated in a different health care system where the offenders may be eligible for Medicaid, Medicare, or another benefit plan.

Methodology

Section 1 would permit a court to maintain jurisdiction for 365 days over certain felony cases where the community supervision was revoked due to a technical violation of the conditions of community supervision. Allowing for the continued court jurisdiction and subsequent release of certain offenders to community supervision is expected to result in decreased demands upon the correctional resources of the State due to shorter terms of confinement in prison. In fiscal year 2010, there were 9,786 felony community supervision revocations to prison for a technical violation of community supervision belonging to approximately 6,410 people. After removing those whose offenses make them ineligible because of the provisions of the bill and those whose sentence length upon revocation was 365 days or less, approximately 6,117 felony community supervision revocations belonging to 3,045 people would be subject to the provisions of the bill. The average sentence length for these offenders is 5.37 years. At present criminal court jurisdiction over felony cases continues for 180 days after the execution of the sentence and in 1.3 percent of cases courts opt to exercise this shock incarceration option. This analysis assumes courts would exercise this option in 5 percent of cases. Assuming that sentencing patterns and release policies not addressed in this bill remain constant, the probable positive fiscal impact of this section is estimated to be \$3.8 million for the 2012-13 biennium.

Section 5 would increase the average monthly call usage rate for eligible offenders from 240 minutes to 480 minutes. In December 2010, 111,000 offenders were eligible for phone privileges, 35,227 offenders made calls, and 5,848 offenders used all 240 minutes allotted. The state revenue earned in December 2010 was \$486,000. Assuming similar phone usage rates year round, the annual revenue earned would be \$5.8 million. Assuming the same factors, it is anticipated that the increase in minutes could increase revenue up to \$2.9 million per year. Government Code, Section 495.027, requires the first \$10 million in phone revenue each year be transferred to the Crime Victim's Compensation Fund. Since the estimated annual revenue earned would not exceed \$10 million, the increase in phone minutes is not expected to increase General Revenue for the Department of Criminal Justice. Any additional revenue earned would be transferred to the Crime Victim's Compensation Fund, unless it exceeded \$10 million per year.

Section 6 would permit inmates' families to purchase and send products to inmates through an approved vendor. The inmate package program could impact TDCJ security operations, but because the volume of packages cannot be determined, TDCJ reports that the impact cannot be determined.

Section 7 would require TDCJ to adopt policies designed to manage inmate population based on similar health conditions. TDCJ reports that the agency currently considers medical need in housing determinations to the extent possible without sacrificing the safety and security of staff and inmates.

Section 8 is permissive and would have a negative fiscal impact only if TDCJ implemented an adult education program. Such a program is currently provided by the Windham School District through the Texas Education Agency.

Section 9 would revise Government Code Section 501.063 to replace an inmate copayment of \$3 for certain inmates with an annual inmate health care fee of \$100 for all confined inmates. The primary difference is that currently only certain inmates who use medical services are required to pay the \$3 copayment while the revision would require all inmates, regardless of whether or how frequently they use health care services, to pay the annual fee. TDCJ reports that in fiscal year 2010, there were 77,058 offenders with annual trust deposits of \$100 or more. However, deposits are not expected to remain constant in future years as a result of a variety of economic and other factors. Assuming the fiscal year 2011 amount for fiscal year 2012 and calculating 75 percent of the amount for subsequent years, it is estimated that the bill would produce \$13.5 million in revenue for the 2012-13 biennium.

Section 13 would require TDCJ, BPP, and contract health care providers to develop and implement a

plan to temporarily release offenders who require expensive medical care. The conditions of such a plan have not been determined; therefore, a fiscal impact cannot be determined.

Sections 2, 3, 4, 10, 11, 12, and the amendments would have no significant fiscal impact to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles, 720 The University of Texas System Administration, 739 Texas Tech University Health Sciences Center, 781 Higher Education Coordinating Board

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