

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 30, 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3386, As Introduced: a positive impact of \$13,485,150 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	\$7,705,800
2013	\$5,779,350
2014	\$5,779,350
2015	\$5,779,350
2016	\$5,779,350

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Crime Victims Comp Acct 469
2012	\$7,705,800	\$2,916,000
2013	\$5,779,350	\$2,916,000
2014	\$5,779,350	\$2,916,000
2015	\$5,779,350	\$2,916,000
2016	\$5,779,350	\$2,916,000

Fiscal Analysis

The bill would amend Section 23, Article 42.12, Code of Criminal Procedure, to permit a judge who has revoked a person's community supervision and disposes of the case as if there had been no community supervision to require the person, if convicted of a felony, to serve a specific term of imprisonment. The bill would also amend Sections 76.002 and 76.011 of the Government Code to permit district and statutory county court judges who have established a Community Supervision and Corrections Department to establish committees, and to permit that department to assist in the operation of programs, including diversion programs and specialized court programs. The bill would amend Section 508.283 of the Government Code to require the Board of Pardons and Paroles to adopt a policy requiring parole panels to consider non-incarceration sanctions before revoking an offender's release on parole. The bill also amends Section 509.007, Government Code, to change the time when community justice plans must be filed and to require that the plans must contain a description of alternative sanctions that could be used to more fully rehabilitate persons under supervision. The bill would amend Section 492.014 of the Government Code to require the Board of Criminal Justice and the Department of Criminal Justice (TDCJ) to maintain joint headquarters in Austin. The bill amends

Section 493.0021, Government Code, to except TDCJ divisions, powers, and duties established by statute on or after September 1, 2011 from certain provisions that give TDCJ organizational flexibility, and also adds Section 493.0072, which requires TDCJ to make reductions in certain benefits before it reduces the number of employees. The bill requires that TDCJ and the Board of Pardons and Paroles conduct a joint study concerning interagency communication by December 1, 2012. The bill would amend Section 495.027(d), Government Code, to change the allowable rate of pay telephone usage for inmates and would add provisions regarding adoption of policies designed to manage inmate population based on similar health conditions and requiring inmates to pay a \$100 health care services fee.

## **Methodology**

Section 1 would permit a judge who has revoked a person's community supervision and disposes of the case as if there had been no community supervision to require the person, if convicted of a felony, to serve a specific term of imprisonment. In fiscal year 2010, approximately 13,602 felony offenders had their community supervision revoked. After removing offenders whose offenses make them ineligible for release to mandatory supervision approximately 7,379 would be subject to the provisions of the bill. The average sentence length specified by the courts for these offenders whose supervision was revoked was approximately 4.73 years. The degree to which the provision of the bill in which a judge specified a time of imprisonment would have an impact on the population but would depend on the amount of time specified by the judge and whether that amount of time deviated from current practices. The cost or savings of this section of the bill cannot be determined.

Section 6 would require TDCJ to consider reducing housing or similar benefits for employees prior to reducing the number of people employed. Expenditures for housing and utilities totaled \$1.1 million in fiscal year 2010. According to TDCJ, revenue from fees collected for use of recreation areas, haircuts, shoe shines and laundry exceeded the costs of those services, offsetting the expenditures for housing for a net gain/loss of zero.

Section 8 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 9 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 10 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.

Sections 2, 3, 4, 5, 7, 11, and 12 would have no significant fiscal impact to the State.

The Board of Pardons and Paroles anticipates no fiscal impact as a result of the bill. The Office of

Court Administration anticipates no fiscal impact to the court system.

**Local Government Impact**

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

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

**LBB Staff:** JOB, ESi, GG, AI, LM, TB, KKR