

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 12, 2011

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

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

IN RE: SB1076 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 SB1076, As Introduced: a positive impact of \$51,529,447 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	\$20,531,802
2013	\$30,997,645
2014	\$37,248,849
2015	\$42,833,102
2016	\$47,298,344

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2012	\$20,531,802
2013	\$30,997,645
2014	\$37,248,849
2015	\$42,833,102
2016	\$47,298,344

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 also would amend the Government Code relating to a person's eligibility for an order of nondisclosure following a term of community supervision for certain drug possession offenses. The bill would also amend the Government Code by requiring the Texas Department of Criminal Justice to prepare an annual study and report relating to the effectiveness and financial impact to the state of placing defendants on community supervision with drug treatment for a drug possession offense.

The bill would take effect September 1, 2011 and apply to a person placed on community supervision

on or after the effective date of the act without regard to when the offense was committed.

Methodology

Under the provisions of the bill a judge would be required 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 bill would also repeal certain section of the Code of Criminal Procedure relating to state jail felony community superivision.

Requiring offenders be placed on felony community superivision instead of confined in sate jail or incarcerated in prison is expected to result in decreased demands upon the correctional resources of the State due to shorter terms of confinement in prison or state jail. In fiscal year 2010, there were 107,787 arrests for the drug offenses addressed in the provisions of the bill. Of those arrested in fiscal year 2010, 2,538 resulted in admissions to prison, 2,679 resulted in admissions to state jail, 7,185 resulted in placements on felony community supervision, and 13,268 resulted in placements on misdemeanor community superivision for the drug offenses addressed in the provisions of the bill. 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, approximately 862 admissions to prison and approximately 914 admissions to state jail would be subject to the provisions of the bill.

In order to estimate the future impact, the proposed conditions of the bill are applied in a simulation model to a state jail population that reflects the distribution of offenses, sentence lengths, and time served. Incarceration savings for the Department of Criminal Justice are estimated on the basis of \$43.03 per inmate per day for state jail facilities and \$45.00 for prison, reflecting approximate costs of either operating facilities or contracting with other entities. Costs of supervision by the Department of Criminal Justice's community justice assistance division are estimated on the basis of \$2.92 per offender per day.

It is assumed that the Department of Public Safety can implement the provisions of the bill dealing with orders of nondisclosure with existing resources. The Texas Department of Criminal Justice does not anticipate a significant fiscal impact from the provision of the bill requiring them to prepare an annual study and report relating to the effectiveness and financial impact to the state of placing defendants on community supervision.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 696 Department of Criminal Justice

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