

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 1, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2044** by Turner, Sylvester (Relating to the criminal consequences for the manufacture, delivery, or possession of certain small amounts of Penalty Group 1 controlled substances.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2044, As Introduced: a positive impact of \$111,580,130 through the biennium ending August 31, 2015.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	\$51,273,588
2015	\$60,306,542
2016	\$66,585,103
2017	\$70,085,126
2018	\$72,930,798

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2014	\$51,273,588
2015	\$60,306,542
2016	\$66,585,103
2017	\$70,085,126
2018	\$72,930,798

**Fiscal Analysis**

The bill would amend the Health and Safety Code by reducing the punishment for manufacture, delivery, or possession of controlled substances in Penalty Group 1 (less than one gram) from a state jail felony to a class A misdemeanor. The bill would also make the manufacture, delivery, or possession of a Penalty Group 1 controlled substances (less than one gram) in a drug free zone a state jail felony. The bill would also require certain offenders placed on misdemeanor community supervision to participate in drug treatment as a condition of community supervision. The bill

would take effect on September 1, 2013 and apply only to offenses committed on or after that date.

## **Methodology**

Penalty Group 1 controlled substances include, but are not limited to, opiates and opium derivatives (e.g., heroin), cocaine, and methamphetamines. In fiscal year 2012, there were 7,271 admissions to state jail and 9,706 placements on felony community supervision for possession of a controlled substance in Penalty Group 1 punishable as a state jail felony. In fiscal year 2012, there were 83 admissions to prison and 83 placements on felony community supervision for manufacture, delivery, or possession of a controlled substance in Penalty Group 1 in a drug free zone punishable as a third degree felony. Based on arrest data, criminal history data, and sentencing trends it is assumed a portion of the offenders previously placed on felony community supervision or incarcerated in state jail would be placed on misdemeanor community supervision. It is assumed a portion of those placed on misdemeanor community supervision would be required to participate in drug treatment as a condition of community supervision.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy are applied in a simulation model, to state jail admissions that reflect the distribution of offenses, sentence lengths, and time served; and the decrease in the number of people added to community supervision. Included in the estimated savings are projected felony community supervision operating savings and projected misdemeanor community supervision costs. Incarceration savings by the Department of Criminal Justice are estimated at \$42.90 per state jail inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities, and \$2.99 per day per person placed on felony community supervision. The incarceration savings in the table above include the cost associated with placements on misdemeanor community supervision. At present community supervision and corrections departments receive 70 cents per day for 182 days for each person placed on misdemeanor community supervision. The estimated incarceration savings for fiscal year 2014 is \$47,595,315.63 (3,040 offenders \* 365 days \* \$42.90 per day). The estimated felony probation savings for fiscal year 2014 is \$4,164,409.71 (3,816 offenders \* 365 days \* \$2.99 per day). The estimated misdemeanor probation cost for fiscal year 2014 is \$486,137.17 (3,816 offenders \* \$0.70 per day \* 182 days). The estimated total savings for fiscal year 2014 is \$51,273,588.17 (\$47,595,315.63 + \$4,164,409.71 - \$486,137.17).

## **Local Government Impact**

The bill would reduce sentences to offenders with lesser amounts of controlled substances from a felony to a Class A misdemeanor. This would be a cost to counties by requiring them to house inmates in county jails who would have previously been sent to state prisons. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both.

The Harris County Sheriff's Office reported flat rate booking and release costs of \$800 per inmate, plus a cost of \$45 per day to house an inmate. Harris County reported the average inmate stay of 28 days, for an average of \$2,060 per inmate. The number of additional inmates housed in Harris County jails could not be determined, but could be significant.

The Travis County Sheriff's Office also reported that costs cannot be determined, but if drug treatment programs were to be provided in county jails, costs may be significant.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** UP, ESi, GG, LM