

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 9, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2803 by Toth (Relating to the procedures applicable to state jail felony community supervision and to the punishment prescribed for certain state jail felonies.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2803, As Introduced: a positive impact of \$266,136,458 through the biennium ending August 31, 2015.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$138,127,095
2015	\$128,009,363
2016	\$102,829,136
2017	\$106,097,344
2018	\$107,745,476

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2014	\$138,127,095
2015	\$128,009,363
2016	\$102,829,136
2017	\$106,097,344
2018	\$107,745,476

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Penal Code as it relates to the procedures applicable to state jail felony community supervision and to the punishment prescribed for certain state jail felonies. The bill's provisions require judges to suspend the imposition of sentence for state jail felons and place them on community supervision. Under current law, this requirement only pertains to state jail felons prosecuted for certain drug offenses. The bill's provisions allow judges to impose the sentence if the state jail felon was convicted of

certain state jail felonies involving possession of controlled substances, had a previous conviction for a felony other than a state jail felony, had a previous conviction for a misdemeanor assault or an offense against the family, had previous convictions for three or more state jail felonies, or was previously placed on deferred adjudication community supervision for the offense for which the offender is being convicted. Under current law, judges may impose the sentence if the state jail felon had a previous conviction for a felony other than a state jail felony reduced to misdemeanor punishment or who was convicted of certain state jail felonies involving possession of controlled substances. Finally, the bill's provisions elevate the punishment from a state jail felony to a second-degree felony if the offender has previously been convicted of three state jail felonies for which the defendant was placed on community supervision. Under current law, the punishment of a state jail felony offense is elevated to a third-degree felony if the defendant has previously been convicted of two state jail felonies.

Methodology

Among fiscal year 2012 prison releases, an estimated 17,109 offenders were incarcerated for state jail offenses that, under the bill's provisions, would be placed on community supervision rather than incarcerated. In fiscal year 2012, the average period of state incarceration for these offenders was 249 days (or 8.3 months) while the average length of community supervision for offenders convicted of state jail offenses was 1,045 days (or 2.9 years). Since fewer offenders would be incarcerated, daily state jail savings are estimated to be \$42.90 per offender. Since more offenders would be under community supervision, daily community supervision costs are estimated to be \$1.38 per offender. Also under the provisions of the bill, an estimated 1,984 offenders would be incarcerated for a state jail offense that has been elevated to a second-degree felony rather than a third-degree felony due to three prior state jail felony convictions. This change is expected to increase the average length of state incarceration from 563 days (1.5 years) to 903 days (or 2.5 years) for these offenders. Since more offenders would be incarcerated, daily prison costs are estimated to be \$50.04 per offender. Overall, the savings from reduced state jail incarcerations substantially exceed the costs from a small increase in prison incarcerations and significant increase community supervision. Therefore, it is assumed that the number of offenders supervised or incarcerated under this statute would significantly reduce the costs associated with state correctional agencies' workload and programs.

Local Government Impact

Community Supervision and Corrections Departments (CSCDs) would see moderate negative fiscal impact associated with the supervision and administration of offenders who would otherwise be in state jails.

Bexar County CSCD assumes 1,424 offenders annually that are sent to state jails who would now be placed on community supervision under the provisions of the bill. Costs associated with these offenders, including startup costs, were estimated at \$1,011,000 for fiscal year 2014. Estimated costs were \$889,250 for fiscal year 2015; \$930,988 for fiscal year 2016; \$977,312 for fiscal year 2017; and \$1,020,827 for fiscal year 2018. These costs would be partially offset by supervision fees; however, Bexar County CSCD anticipates collection rates of 20 percent with average fees of \$600, for a total of \$170,880 annually in new revenue. Bexar County CSCD's annual budget is \$28,649,204.

Williamson County CSCD assumes 360 cases per year for an annual estimate of \$227,000 in new costs. This would be partially offset by \$12,960 in new revenue associated with supervision fees.

Williamson County CSCD's annual budget is \$7.0 million.

Matagorda/Wharton County CSCD anticipates new costs of \$90,502 annually associated with the bill. This would be partially offset by approximately \$10,000 annually in new revenue from fees. The Matagorda/Wharton County CSCD's annual budget is \$1,341,045.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: UP, ESi, GG, JGA, KKR