

**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: HB3494** by Moody (Relating to the punishment for the offense of graffiti and the creation of a graffiti pretrial diversion program.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Penal Code and Code of Criminal Procedure as it relates to the punishment for graffiti and the creation of a graffiti pretrial diversion program. For graffiti offenses causing a pecuniary loss less than \$200, the bill would make these offenses Class C misdemeanors rather than Class B misdemeanors. For graffiti offenses causing a pecuniary loss of \$500 or more but less than \$1,000, the bill would make these offenses Class B misdemeanors rather than Class A misdemeanors. For graffiti offenses causing a pecuniary loss of \$1,500 or more but less than \$3,000, the bill would make these offenses Class A misdemeanors rather than state jail felonies. For graffiti offenses marking specially protected structures (e.g., school), the bill would require the pecuniary loss total at least \$1,500 to be a state jail felony. Also, for graffiti offenses that are Class C misdemeanors, the bill would allow the offender to receive a citation with instructions to appear before a magistrate rather than be taken to appear before the magistrate, which is permitted for Class B misdemeanors under current law. Finally, for graffiti offenses that are state jail felonies or lower level offenses, the bill would allow defendants to participate in a pre-trial diversion program and require that the court dismiss the case if the defendant successfully completed the program.

The bill reduces the penalty for certain graffiti offenses. Reducing the penalty for any criminal offense is expected to increase demands on state and/or county correctional agency resources due to longer terms of community supervision, county jail confinement, state correctional institution confinement, and/or parole. However, in the case of the bill, it is assumed that the number of offenders supervised or incarcerated under this statute would not significantly impact state correctional agencies' workload and programs.

**Local Government Impact**

The bill would raise the minimum level of damage required for a graffiti charge to be elevated, effectively reducing penalties for graffiti charges in many cases. This would lead to savings for counties associated with housing offenders in county jails. Savings would vary depending on the number of cases affected by the bill but are not anticipated to be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

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