

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

August 9, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB241 by Thompson, Senfronia (Relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB241, As Introduced: a positive impact of \$50,665,040 through the biennium ending August 31, 2019.

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
2018	\$37,911
2019	\$50,627,129
2020	\$76,396,447
2021	\$80,492,879
2022	\$80,576,538

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
	1
2018	\$37,911
2019	\$50,627,129
2020	\$76,396,447
2021	\$80,492,879
2022	\$80,576,538

Fiscal Analysis

The bill would amend the Health and Safety Code and Code of Criminal Procedure as they relate to the punishments for the possession of certain amounts of controlled substances. The bill would reduce the punishment for possession of controlled substances in Penalty Groups 1 (less than one gram), 1-A (fewer than 20 abuse units), and 2 (less than one gram) from a state jail felony to a

Class A misdemeanor. The bill would also reduce the punishment for these offenses in a drug-free zone from a third degree felony to a Class A misdemeanor.

Methodology

In fiscal year 2016, 8,008 people subject to the bill's provisions were admitted into state correctional facilities and 8,551 were placed under felony community supervision. This analysis assumes the individuals subject to the bill's provisions would no longer be eligible for confinement within state correctional facilities or placement under felony community supervision. Instead, these individuals would be charged with misdemeanor offenses and subject to confinement in county jails or placement under misdemeanor community supervision.

Cost per day figures included in this analysis are based on those reported in the *January 2017 Criminal and Juvenile Justice Uniform Cost* report. Incarceration savings are estimated at \$61.63 per offender, per day for prison, and \$52.88 per offender, per day for state jail. Felony community supervision savings are estimated at \$1.78 per offender, per day. Felony community supervision savings would be partially offset by misdemeanor community supervision costs of \$0.70 per offender, per day. The state provides Community Supervision and Corrections Departments \$0.70 per misdemeanor offender, per day for 182 days. Parole supervision savings are estimated at \$4.39 per offender, per day. Based on the adult correctional population projections included in the *January 2017 Adult and Juvenile Correctional Population Projections* report, and assuming all other sentencing practices remain constant, the bill's provisions would result in net savings of \$37,911 during fiscal year 2018 and \$50,627,129 in fiscal year 2019. This analysis assumes the bill's provisions would reach partial implementation in fiscal year 2018 and reach full implementation in fiscal years 2019 and beyond. These net savings in fiscal year 2019 include incarceration savings of \$47,635,022, felony community supervision savings of \$3,744,931, and parole supervision savings of \$2,994. Net savings are partially offset by misdemeanor community supervision costs of \$755,818.

According to the Comptroller of Public Accounts, the revenue loss associated with reduced collections of criminal fines and court costs cannot be determined. The Texas Department of Public Safety, Department of State Health Services, and the Health and Human Services Commission indicate they do not anticipate a significant fiscal impact.

The bill would take affect December 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal impact to local courts is anticipated.

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. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of, 696 Department of Criminal Justice

LBB Staff: UP, KJo, LM, JPo, TBo, FR, GDz, JGA

