

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 13, 2017

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

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

**IN RE: HB130** by Dutton (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 HB130, As Introduced: a positive impact of \$69,462,242 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	\$29,889,125
2019	\$39,573,117
2020	\$39,598,204
2021	\$39,675,021
2022	\$39,713,889

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2018	\$29,889,125
2019	\$39,573,117
2020	\$39,598,204
2021	\$39,675,021
2022	\$39,713,889

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 with a minimum term of confinement of 180 days. The bill would also reduce the punishment for possession of less than a gram of controlled substances in Penalty Groups 1 and 2 in a drug-free zone from a third degree felony to a Class A misdemeanor with a minimum term of confinement of 180 days. Individuals with certain previous convictions would not be subject to the bill's provisions.

**Methodology**

In fiscal year 2016, 3,681 people subject to the bill's provisions were admitted to state correctional facilities and 6,659 were placed on felony community supervision. Certain individuals with previous convictions would not be subject to the penalty reductions included in the bill; these individuals are not included in the figures listed above. This analysis assumes the individuals subject to the bill's provisions would no longer be eligible for confinement in state correctional facilities or placed under felony community supervision. Instead, these individuals would be charged with misdemeanor offenses and subject to confinement in county jails or placement on 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 \$29,889,125 during fiscal year 2018. 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 include incarceration savings of \$26,948,248, felony community supervision savings of \$3,241,764 and parole supervision savings of \$61,056. Net savings are partially offset by misdemeanor community supervision costs of \$361,943. The revenue loss associated with reduced collections of criminal fines and court costs as a result of implementing the provisions of the bill is indeterminate.

**Local Government Impact**

The bill could increase fine revenue for counties; however, the revenue could be offset by the mandatory jail time as prescribed in the provisions of the bill and the increase of offenders in county jail due to the various penalties decreased from felonies to misdemeanors under the provisions of the bill. Due to the vast characteristics of the offender population and the unknown composition of the future offender population, the impact on local governments is difficult to estimate. The impact on counties would vary depending on a number of factors including, the number of future cases of certain offenses; the severity of each case; the resources of each individual county; and the size of the county. According to the Texas Commission on Jail Standards, the average cost for an inmate in a county jail is \$60.09 per day.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission, 537 State Health Services, Department of, 696 Department of Criminal Justice

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