

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 8, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1323** by Murr (Relating to bail proceedings and related duties of a magistrate in a criminal case.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1323, As Introduced: a negative impact of (\$600,000) through the biennium ending August 31, 2021.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2020	(\$600,000)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b>
2020	(\$600,000)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

**Fiscal Analysis**

The bill would modify the Code of Criminal Procedure and Government Code to reform the bail system by requiring magistrates to use and consider the results of a validated pretrial risk assessment based on a defendant's risk status and other relevant factors before making a pretrial

release decision.

The bill would require the Office of Court Administration (OCA) to develop an automated pretrial risk assessment system that would measure a defendant's risk status by determining their likelihood to appear in court when required, to commit crimes while out on bail, and to pose a threat to the community or victim. OCA would be required to make the risk assessment system available to judges and other magistrates at no cost to a county, municipality, or magistrate. The bill would require the agency to develop this system and for each certain courts to adopt the pretrial risk assessment system no later than September 1, 2020.

Certain provisions of the bill would take effect September 1, 2019. The bill would require the approval of a constitutional amendment to the Texas Constitution by the voters for the provisions in the bill related to denial of bail to take effect. If the voters do not approve the constitutional amendment, magistrates would not be able to deny bail except for in the limited circumstances where that is already authorized.

### **Methodology**

The OCA anticipates one-time costs of \$600,000 in fiscal year 2020 for development of the automated pretrial risk assessment system.

OCA states that this project would be eligible for funding from General Revenue-Dedicated Statewide Electronic Filing Fund No. 5157 due to this account's eligible usage including support of court technology projects that have a statewide impact; however, it is unknown whether there will be sufficient funding available in this account in the 2020-21 biennium. Therefore, this analysis assumes General Revenue Funding would be needed to cover the obligations under the provisions of the bill.

### **Technology**

This estimate includes technology costs of \$600,000 in one-time start-up expenses in fiscal year 2020.

### **Local Government Impact**

According to the OCA, while the bill may increase a county's pretrial processing and supervision costs, such costs are anticipated to be offset by reduction in jail costs, bail failure processing costs due to bond forfeitures and new charges. A recent study compared Travis County's risk-informed release system with Tarrant County's monetary based release system and found that total costs are 30 percent lower where risk informed release is used. Travis County's total pretrial costs was \$2,134, whereas Tarrant County's costs \$3,083. Smaller counties, however, might not realize enough reduced costs to fully cover increased costs. Tom Green County anticipates a fiscal impact to their county due to additional staff and increased operating and supplies costs.

Counties may also see a reduction in the cost of court-appointed attorneys, as defendants who are released are likely to use funds previously used for posting monetary bail to hire counsel, rather than needing appointment of counsel at county expense. Although counties may develop their own risk assessment tool, counties would be able to control costs by using the automated system that will be developed and made available by OCA. Presumably, counties choosing an alternate risk assessment tool would only do so if there are resources available to support that assessment tool.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of

**LBB Staff:** WP, LBO, MW, DA, AF, GDz, JGa