

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: HB2020 by Kacal (Relating to the judges authorized to release on bail a defendant charged with certain offenses, and the considerations for setting the amount of bail.), **As Introduced**

The fiscal implications of the bill cannot be determined because the number of additional district judge and criminal associate judge positions that would be determining bail for defendants under the provisions of the bill is unknown.

The bill would amend Government Code to create a Bail Advisory Program within the Criminal Justice Division (CJD) at the Office of the Governor. The program is required to develop a standardized pretrial risk assessment tool to aid in the determination of the appropriate amount of bail to be set for any given defendant, make recommendations regarding best practices for pretrial release and personal bond offices, as well as collect and analyze research and information related to pretrial release practices and distribute that information to courts and personal bond offices. The bill would also require that a district judge, or a criminal associate judge appointed by a district judge, to determine bail for defendants charged with a sexual or sexual assaultive offenses punishable as a felony or misdemeanor. The bill would take effect September 1, 2019.

Based on information provided by the Office of the Governor, this analysis assumes three additional FTEs would be needed each fiscal year in order to establish the new Bail Advisory Program. It is estimated that the three FTEs, including a Director and two Program Specialists, would have a total salary cost of \$257,000 each fiscal year. Benefits and payroll contribution costs would be \$89,770. Additionally, the agency has estimated travel costs of approximately \$10,000 each year for these FTEs to visit stakeholders across the state. This results in total FTE related costs of \$356,770 each fiscal year.

Based on information provided by the Office of the Governor and the bill requiring the program to develop a standardized pretrial risk assessment tool to aid in the determination of the appropriate amount of bail to be set for any given defendant, this analysis assumes that a two-year grant in the amount of \$200,000 each biennium would be required for a qualified entity to research, develop, and evaluate this tool. This cost estimate is consistent with the amount the CJD has previously provided in grant funds to various entities for similar research projects.

According to the Office of Court Administration (OCA), the provisions of this bill would increase the workload of a district judge by requiring them to make bail determinations in all felony and misdemeanor sexual assault offenses. In fiscal year 2018, OCA reports that there were 216,922 felony cases and at least 47,651 assaultive or sexual misdemeanor offenses filed. Assuming

conviction rates would remain the same, a total of 264,573 cases would be subject to a district judge's bail determination, or a criminal associate judge if appointed for this purpose, each fiscal year under the provisions of the bill. Based on an analysis provided by OCA, it is estimated that 35 additional district judges at a cost of \$6,991,460 each fiscal year would be required to handle this increased volume of work if no criminal associate judge would be appointed to perform bail duties. Where additional criminal associate judges would be appointed, salaries and other costs associated with those positions would be paid by the county where they would be appointed and the county would have to agree to take on these additional costs. Due to caseloads and budgetary constraints varying from county to county and the appointment of a criminal associate judges being decided by district judges, the number of district judges and criminal associate judges that would be performing bail duties under the provisions of the bill is unknown. Accordingly, the fiscal impact to the state cannot be determined.

Local Government Impact

Due to caseloads and budgetary constraints varying from county to county and the appointment of a criminal associate judges being decided by district judges, the number of criminal associate judges that would be performing bail duties under the provisions of the bill is unknown. Accordingly, the fiscal impact to local government cannot be determined.

Tom Green County estimates a fiscal impact to the County of an additional \$1.1 to \$1.2 million each fiscal year for the addition of an associate judge to establish bail, and for increased staff and operating costs for pre-trial risk assessment screening and a personal recognizance bond program.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor

LBB Staff: WP, LBO, MW, DA, JSm, AF