

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 19, 2019

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

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

IN RE: **HB2343** by Dutton (Relating to an affirmative defense available to certain students enrolled in grade level nine or above who engage in prohibited sexual contact with another student at or above that grade level.), **As Introduced**

The fiscal impact of implementing the bill is indeterminate due to the lack of data or information that would allow the number of cases in which the actor was not more than five years older than the victim and both were enrolled in a public or private school in grade level nine or above at the time of the offense to be identified from all other indecency with a child or sexual assault of a child cases. These data are necessary to estimate the fiscal impact of the bill's provisions.

The bill would amend the Penal Code to provide an affirmative defense to prosecution of the offenses of indecency with a child and sexual assault of a child if the actor was not more than five years older than the victim and both were enrolled in a public or private school in grade level nine or above at the time of the offense.

Providing an additional defense to prosecution for any criminal offense is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed under supervision in the community or sentenced to a term of confinement in state correctional institutions. The bill may have a positive fiscal impact by decreasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact cannot be determined due to the lack of data or information related to the number of people prosecuted who were not more than five years older than the victim and both were enrolled in a public or private school in grade level nine or above at the time of the offense. The Office of Court Administration indicates the modifications outlined in the bill's provisions will not result in a significant fiscal impact.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

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

LBB Staff: WP, LBO, LM, JPo

