

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB2758 by Hernandez (relating to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication community supervision.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2758, Committee Report 2nd House, Substituted: a negative impact of (\$960,659) through the biennium ending August 31, 2021.

The Texas Department of Criminal Justice (TDCJ) is required to implement a provision in this bill only if the legislature appropriates money for that purpose. Otherwise, TDCJ may, but is not required to, implement a provision of this bill using other available appropriations. The bill would make no appropriation but could provide the legal basis or 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
2020	(\$304,221)
2021	(\$656,438)
2022	(\$1,005,792)
2023	(\$2,568,279)
2024	(\$5,048,416)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2020	(\$304,221)
2021	(\$656,438)
2022	(\$1,005,792)
2023	(\$2,568,279)
2024	(\$5,048,416)

Fiscal Analysis

The bill would amend various codes as they relate to changing the eligibility of persons charged with certain offenses to receive community supervision, including deferred adjudication community supervision. Under the provisions of the bill, individuals with certain indecency with child, trafficking, and prostitution offenses would no longer be eligible for community supervision and instead would be sentenced to incarceration.

Methodology

The State would realize a net cost to the General Revenue Fund due to the increase in individuals incarcerated within state correctional institutions. The provisions of the bill would modify the Code of Criminal Procedure to add individuals convicted of certain indecency with child, trafficking, and prostitution offenses to the list of those ineligible for community supervision or to the list of those required to serve a term of incarceration, without consideration of good conduct time, one-half of the sentence or 30 calendar years, whichever is less, with a two calendar year minimum before the individual would be eligible for release onto parole. The bill would also make modifications to the eligibility for emergency medical service personnel certification and license based on these offenses. Under current statute, individuals charged with the offenses outlined in the bill can be placed under community supervision or sentenced to a term of incarceration within state correctional institutions.

To estimate the fiscal impact, LBB staff analyzed records belonging to those individuals placed under community supervision in fiscal year 2018 for the offenses outlined in the bill's provisions, building into the analysis a minor time lag between offense and receipt into the correctional institution. The time lag was based on that observed within both the community supervision and correctional institution datasets analyzed. LBB staff estimated the time incarcerated based on sentencing patterns and the actual time served by those individuals with identical or similar offenses who were released from incarceration in fiscal year 2018. After calculating the additional time that would be spent incarcerated, the number of additional days were multiplied by the fiscal year 2018 system-wide cost per day per person (\$62.34) for a total cost. The estimated incarceration costs for fiscal years 2020 and 2021 are \$304,717.92 and \$656,938.92, respectively. With those convicted of certain indecency with child, trafficking, and prostitution offenses no longer eligible for community supervision, the State would realize a savings. The decrease in demand for each fiscal year was adjusted based on the projections published in the January 2019 Adult and Juvenile Correctional Population Projections report. The state cost per day per person for community supervision (\$1.92) was multiplied by the adjusted decrease in placements to felony community supervision for a total savings. The estimated community supervision savings for fiscal years 2020 and 2021 are \$497.28 and \$500.56, respectively. The costs per day per person are as reported in the January 2019 Criminal and Juvenile Justice Uniform Cost Report. These estimates are based on the assumption that sentencing patterns and release policies not addressed in this bill remain constant. The estimated net incarceration costs for fiscal years 2020 and 2021 are \$304,220.64 and \$656,438.36, respectively. The Office of Court Administration, Department of State Health Services, and Board of Pardons and Paroles indicate the modifications outlined in the bill's provisions will not result in a significant fiscal impact.

Local Government Impact

According to the Office of Court Administration, no significant fiscal impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

LBB Staff: WP, LBO, LM, SPa, DA