

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 1, 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: **HB3135** by Cain (relating to affirmative defenses to prosecution for certain offenses involving material or conduct that is obscene or otherwise harmful to children.),
Committee Report 1st House, Substituted

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Penal Code as it relates to affirmative defenses to prosecution for certain offenses involving material or conduct that is obscene or otherwise harmful to children. Under the provisions of the bill, it would no longer be an affirmative defense to prosecution that the conduct for the offense of sexual performance by child was for a bona fide educational, medical, psychological, or psychiatric purpose. Additionally, it would be an affirmative defense to prosecution that the offense of sale, distribution, or exhibition of harmful material to a minor was by a person having a judicial, law enforcement, or legislative justification but not a scientific, educational, governmental, or similar justification. These offenses are punishable at multiple felony levels with punishment based on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate the modifications outlined in the bill's provisions will not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
 Department of Criminal Justice

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