

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 22, 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: **HB3206** by González, Jessica (relating to the prosecution and punishment of the offense of prostitution and to a court cost imposed on conviction of certain trafficking of persons and prostitution offenses.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3206, Committee Report 1st House, Substituted: a positive impact of \$2,330,728 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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$577,970
2021	\$1,752,758
2022	\$1,827,924
2023	\$1,832,073
2024	\$1,832,073

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>New General Revenue Dedicated Commercial Sexual Exploitation Victim Fund</i>	Probable Savings/(Cost) from <i>General Revenue Fund 1</i>
2020	\$159,000	\$577,970
2021	\$159,000	\$1,752,758
2022	\$159,000	\$1,827,924
2023	\$159,000	\$1,832,073
2024	\$159,000	\$1,832,073

Fiscal Analysis

The bill would amend the Government Code to create the Commercial Sexual Exploitation Victim Fund (account) as a dedicated account in the General Revenue Fund and would require individuals convicted, including those placed on community service supervision or deferred adjudication community supervision, with the offense of prostitution to pay a fee of \$500. The bill would require the Legislature to appropriate revenue deposited to the account to the Criminal Justice Division of the Governor's Office to provide services and programs for victims of human trafficking.

The bill would amend the Penal Code by changing the offense of prostitution from a state jail felony to a Class A misdemeanor, which would result in the reduction of the offender population to the Texas Department of Criminal Justice.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature

The bill would take effect September 1, 2019.

Methodology

According to the Department of Public Safety, there were 753 convictions for prostitution offenses and 43 convictions for trafficking-related offenses where the offender was the payer in fiscal year 2017. For the purposes of this analysis, it is assumed that similar conviction rates would continue each year. Based on the analysis of the Comptroller of Public Accounts, the \$500 fee on a prostitution offense and a trafficking-related offense if the offender is the payer would generate \$398,000 each year. This analysis assumes a 40 percent collection rate, which would result in an estimated \$159,200 each year in revenues to the new fund (796 convictions x \$500 fee x 40 percent collection rate = \$159,200 each year). The revenue gains are reflected in the table above.

This analysis assumes that reclassifying the offense from a state jail felony to a Class A misdemeanor would result in a savings due to the reduction in jail time related to the offense of prostitution.

In fiscal year 2018, 170 persons were admitted to state jail for prostitution offenses and the average length of stay was 192 days. The cost per day in state jail according to the Legislative Budget Board's January 2019 Uniform Cost Report was \$52.46. Using this cost, the annual savings to the Department of Criminal Justice correctional institutions would be \$1,712,294 (170 persons X 192 days X \$52.46).

This analysis also assumes that a savings would be realized due to the bill changing state jail felony probation to misdemeanor community supervision for the offense of prostitution. Felony probation is \$1.92 per day and misdemeanor community supervision is 70 cents per day, for a savings to the state of \$1.22 per day. Given that the state pays a maximum of 182 days, the annual cost would be \$21,658 (170 persons X 182 days X \$0.70).

In fiscal year 2018, 111 persons placed on state jail probation for the offense of prostitution. Under the provisions of the bill, these individuals would be placed on misdemeanor community supervision. Using the average length of stay of 730 days for those released from probation in fiscal year 2018, the savings would be \$155,578 (111 persons X 730 days X \$1.92) which would

be spread out over several fiscal years. This savings would be offset by the cost realized over the same time period for these individuals moving to misdemeanor community supervision, which would total \$14,141 (111 persons X 182 days X \$0.70).

This analysis does not anticipate any impact from individuals under 18 years of age being prohibited from prosecution for prostitution by the bill. No one under the age of 18 in fiscal year 2018 was placed on community supervision or sent to prison for either misdemeanor or felony prostitution. Similarly, there is no fiscal impact anticipated from the bill prohibiting a child from being referred to a juvenile court for the offense of prostitution.

Although this analysis assumes the similar conviction rates for the offense of prostitution committed on or after September 1, 2019, savings reflected above in the table for fiscal years 2020, 2021, and 2022 consider delays between the date of offense and the date persons are placed either in a correctional institution or community supervision.

Local Government Impact

El Paso County and Galveston County do not anticipate a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 696 Department of Criminal Justice

LBB Staff: WP, JPo, LBO, MW, DA, AF, LCO