

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 28, 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: HB3920** by Dutton (Relating to the establishment of the inmate legal services office and to the appointment and compensation of certain legal counsel for certain indigent inmates and other persons in secure correctional facilities.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3920, As Introduced: a negative impact of (\$6,993,858) 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	(\$3,496,929)
2021	(\$3,496,929)
2022	(\$3,496,929)
2023	(\$3,496,929)
2024	(\$3,496,929)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$3,496,929)	58.0
2021	(\$3,496,929)	58.0
2022	(\$3,496,929)	58.0
2023	(\$3,496,929)	58.0
2024	(\$3,496,929)	58.0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure to create the Inmate Legal Services Office (ILSO) to provide legal representation to a person who commits an offense while in a correctional

facility or correctional institution of the Texas Department of Criminal Justice (TDCJ) and is determined to be indigent. The ILSO would employ attorneys, support staff, and any other personnel required to provide legal representation and pay all fees and costs associated with providing legal representation for indigent inmates, unless a conflict of interest exists, the office has insufficient resources to provide adequate representation, the office is incapable of providing representation in accordance with the rules of professional conduct, or the acceptance of the appointment would require the attorneys at the office to have a caseload that exceeds the maximum allowable caseload as established by the office.

The bill would amend the Government Code to establish the Inmate Legal Services Board. The board would be composed of members appointed by the State Bar of Texas and would be required to submit a list of not more than five eligible candidates to the Court of Criminal Appeals for consideration for the appointment of the director position of the ILSO. Under the provisions of the bill, the Board would determine the director's salary which must maintain parity with the compensation of the chief of the special prosecutions unit. The Court of Criminal Appeals would select the director of the ILSO from the list provided by the Inmate Legal Services Board.

The bill would require the ILSO to represent an indigent defendant subject to a civil commitment proceeding to determine if a person is a sexually violent predator.

The bill would require the State Bar of Texas to appoint members to the Inmate Legal Services Board no later than December 1, 2019 and require the board to provide a list of candidates for the director of the ILSO to the Court of Criminal Appeals no later than January 1, 2020.

The provisions of the bill would only apply to legal representation appointed on or after February 1, 2020. Legal representation appointed before February 1, 2020 would be governed by the law in effect immediately before the effective date of the bill, or September 1, 2019.

## **Methodology**

Currently, the State Counsel for Offenders (SCFO) provides legal representation to inmates held in a correctional facility or correctional institution of the TDCJ who are determined to be indigent and to indigent defendants subject to civil commitment proceedings to determine if the defendant is a sexually violent predator.

Under the provisions of the bill, the responsibility of providing legal representation to inmates would be transferred from the SCFO to the ISLO after February 1, 2020. Any appointment made before February 1, 2020 would remain with the SCFO until the resolution of each case.

This analysis assumes that that the ISLO will have similar budgetary and staffing requirements as the SCFO. According to TDCJ, the SCFO was appropriated \$3,496,929 and 58 FTEs in fiscal year 2019.

The number of inmates that would be assigned representation by the SCFO from September 1, 2019 until the establishment of the ILSO on February 1, 2020 and the number of unresolved cases assigned to the SCFO as of February 1, 2020 is unknown; therefore, the potential cost savings from the dissolution of the SCFO cannot be determined since it is unknown how long the SCFO will need to resolve the remaining cases as required under the provisions of the bill.

## **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, AI, DA