

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

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

**April 30, 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: HB4038** by Dominguez (Relating to an affirmative defense to certain prohibited sexual conduct occurring as part of a dating relationship that began in primary or secondary school.), **As Introduced**

**The fiscal impact of implementing the bill is indeterminate due to the lack of data necessary to determine the number of cases prosecuted for indecency with a child or sexual assault of a child in which both the actor and the victim met the age difference and dating relationship criteria while both were enrolled in a school meeting the provisions as outlined in the bill at the time of offense. 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 and the victim met the age difference and dating relationship criteria while both were enrolled in the same primary or secondary school that provided instruction to not more than four consecutive grade levels 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 within state correctional institutions. The bill may have a positive fiscal impact by decreasing the number of people under 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 met the age difference criteria, were in a dating relationship with the victim, and were enrolled in the same primary or secondary school as the victim that provided instruction to not more than four consecutive grade levels 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, 696

Department of Criminal Justice

**LBB Staff:** WP, LBO, LM, JPo