

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

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

IN RE: **SB562** by Zaffirini (Relating to criminal or juvenile procedures regarding persons who are or may be persons with a mental illness or intellectual disability.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time. Provisions of the bill that would remove judicial discretion on how, or whether, certain fines should be paid by certain defendants could increase state revenue.

The bill would require counties transferring a defendant to the Texas Department of Criminal Justice (TDCJ) to provide a copy of a defendant's mental health records to an officer designated by TDCJ. The bill would require the Health and Human Services Commission (HHSC) to transfer a defendant from a maximum security unit to a non-maximum security unit if a review board determines the defendant is not manifestly dangerous. The bill would also require a court, upon receiving notice from the head of a facility or outpatient treatment provider of intent to release the defendant, to hold a hearing to determine whether release from the facility or program is appropriate. The bill would amend the definition of a forensic patient to include persons with intellectual disabilities.

The bill would allow a person to have all records and files related to an arrest for a criminal offense expunged under certain conditions and would allow for the certain fees to be waived if the person successfully completes a veterans treatment court program or mental health court program. The bill would require the creation of a mental health court program in counties with a population of more than 200,000 and require those counties to apply for federal and state funds to pay for the program.

The bill would create a set of diversion programs for non-traffic Class C fine-only offenses committed by children under 17 years of age. The bill specifies several diversion strategies and would require each justice and municipal court or group of courts in a county or city to adopt a youth diversion plan and to specify strategies for that plan. The bill specifies certain requirements for the operation of these diversion programs.

The bill would permit the clerk of a justice or municipal court to collect a \$30 fee from the parents of a child in a diversion program but would prohibit the collection of the fee in certain circumstances. Fees collected would be required to be deposited in a special account to offset the cost of the operations of the diversion program. According to the Comptroller of Public Accounts (CPA), fees imposed by the bill are retained locally.

The bill would rename GR Account 5164 Truancy Prevention and Diversion Fund to the Youth Diversion Fund and would expand the use of these funds to defray the costs of youth diversion programs. The bill would expand the collection of a \$50 juvenile delinquency prevention and graffiti eradication fee to include justice or municipal court and would permit these funds to be used for youth diversion programs. The bill would repeal several provisions of the Code of Criminal Procedure.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2019.

It is assumed the state court system, HHSC, and TDCJ can implement the provisions of the bill relating to the delivery of certain mental health information regarding a defendant transferred from a county to the custody of TDCJ, the commitment of certain defendants for competency restoration, and the use of telepsychiatry in determining whether a defendant is manifestly dangerous before commitment using existing resources.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact from waived fees or the creation of mental health court programs due to the limited number of participants in mental health court programs.

Based on the analysis of CPA and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill relating to the operation of, participation in, and effects of successful completion of a mental health court program could be accomplished using existing resources.

According to the Commission on Law Enforcement, the costs of the bill relating to youth diversion programs would depend on the terms of the diversion agreement.

It is assumed that the Juvenile Justice Department can implement the provisions of the bill relating to youth diversion programs using existing resources.

According to CPA, provisions of the bill that would repeal portions of the Code of Criminal Procedure could result in an increase to state revenue. The fiscal impact of these provisions cannot be estimated.

Local Government Impact

There may be a cost to counties to provide additional information when transferring a defendant to TDCJ.

According to OCA, while there may be a cost to local governments to implement youth diversion strategies, the agency assumes that the cost would be offset by the administrative fee that is allowed to be collected and the court cost revenue that would be able to be expended on the program. Therefore, the agency anticipates no significant fiscal impact to units of local government.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 407 Commission on Law Enforcement, 529 Health and Human Services Commission, 644 Juvenile Justice Department, 696 Department of Criminal Justice

LBB Staff: WP, LBO, EP, SB