

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 13, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB569 by Sanford (Relating to credit toward payment of a fine and costs for certain misdemeanants confined in jail or prison before sentencing.), **As Passed 2nd House**

The fiscal implications to the State cannot be determined due to a lack of case-specific data to determine if a particular defendant would be confined or imprisoned for another offense after committing a misdemeanor punishable by fine only; to determine the amount of time a defendant spends in confinement between arrest and sentencing; and to segregate revenues from costs imposed on defendants who spend time in confinement and those not confined.

The bill would amend the Code of Criminal Procedure to require a justice or judge to apply jail credit toward any outstanding fine or costs in a misdemeanor case punishable by a fine only if the defendant is subsequently confined in a jail or prison in another case if that confinement occurred after the commission of the misdemeanor. The credit would be applied to the amount of the fine and costs at the rate of not less than \$150 for each day of confinement.

The bill would amend the Code of Criminal Procedure to require that the notice required before a justice or judge may issue an arrest warrant for a defendant's failure to appear in a justice or municipal court must include a statement that the defendant may be entitled to jail credit toward any outstanding fine or costs in the case if the defendant was confined in jail or prison on another case after committing the offense for which the defendant failed to appear.

The bill would also provide that a defendant placed in jail on account of a failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant is too poor to pay the fine and costs or has remained in jail a sufficient length of time to satisfy the fine and costs.

Based on the analysis of the Office of Court Administration (OCA), the fiscal impact of the bill cannot be determined. The OCA reports that it does not collect case-specific data and has no way to determine if a particular defendant would be confined or imprisoned for another offense after committing a misdemeanor punishable by fine only.

Based on the analysis of the Comptroller of Public Accounts, the provisions of the bill would impact costs imposed on eligible defendants, including various court costs, fines, and fees due to credit being used toward payments of the imposed costs. The extent to which state revenues would be reduced cannot be estimated due to the lack of statewide data necessary to determine the amount of time a defendant spends in confinement between arrest and sentencing and to segregate revenue from costs imposed on defendants who spend time in confinement and revenue from defendants who do not spend time in confinement.

The bill would take effect September 1, 2021.

Local Government Impact

Montgomery County Justice Courts do not anticipate a fiscal impact. The fiscal impact to other units of local government is not anticipated to be significant.

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts

LBB Staff: JMc, LBO, DKN, MW, BH, AF