

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 22, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1086 by Moody (Relating to the criminal penalties for certain criminal offenses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1086, As Introduced : a positive impact of \$35,917,607 through the biennium ending August 31, 2023.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	(\$3,579,297)
2023	\$39,496,904
2024	\$133,194,018
2025	\$133,104,562
2026	\$134,783,982

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Judicial Fund 573	Change in Number of State Employees from FY 2021
2022	(\$3,579,297)	(\$521,771)	64.0
2023	\$39,496,904	(\$521,771)	64.0
2024	\$133,194,018	(\$521,771)	64.0
2025	\$133,104,562	(\$521,771)	64.0
2026	\$134,783,982	(\$521,771)	64.0

Fiscal Analysis

The bill would amend various codes to remove references to state jail felonies and replace them with a fourth degree felony. Under the provisions of the bill, offenses prosecuted as a fourth degree felony would be punished in the same manner as state jail felonies under existing statute, except individuals would be eligible for parole. The bill also reduces the punishments for several offenses from a state jail felony to a Class A misdemeanor, and the punishment for other offenses from a third degree felony to a Class A misdemeanor or a fourth degree felony, depending upon the circumstances of the offense. The bill would take effect on September 1, 2021, and apply to offenses committed on or after that date.

Methodology

Reducing the penalties for these criminal offenses 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 people placed onto felony community supervision, a decrease in the length of supervision on felony community supervision, a decrease in the number of people admitted into state correctional facilities, and a decrease in the length of stay in correctional facilities. Decreasing the penalty for any 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 people placed onto felony community supervision, a decrease in the length of supervision on felony community supervision, a decrease in the number of people admitted to state correctional facilities, and a decrease in the length of stay in correctional facilities. From fiscal year 2018 through 2020, an average of 8,580 people were placed onto felony direct community supervision and 11,042 people were admitted into a state correctional institution for a state jail felony that would be reduced to a Class A misdemeanor as outlined in the bill. From fiscal years 2018 through 2020, an average of 148 people were placed on felony direct community supervision and 84 were admitted into a state correctional institution for a third degree felony that would be reduced to a fourth degree felony or misdemeanor as outlined in the bill. Additionally, from fiscal years 2018 through 2020, an average of 4,727 people were admitted into a state correctional institution for a state jail felony who could potentially be considered for parole supervision as outlined in the bill. The average length of parole supervision for a fourth degree felony cannot be estimated at this time because most state jail felonies are not released and placed onto parole supervision.

The probable fiscal impact due to correctional population changes is based on fiscal year 2020 costs per day per person included in the *January 2021 Criminal and Juvenile Justice Uniform Cost Report*. Community Supervision and Corrections Departments receive \$0.70 per misdemeanor placement for 182 days and receive state funds of \$2.13 for felony community supervision placements for the entire length of stay. The cost per day per person was \$62.52 for state jails and \$69.27 for system wide facilities. The cost per day for parole supervision was \$4.64. Estimated populations are based on the adult incarceration projections included in the *January 2021 Adult and Juvenile Correctional Population Projections* report, include a time lag, and assume sentencing patterns and policies not addressed in the bill remain constant.

According to the Board of Pardons and Paroles (BPP), the bill will have a significant impact. The bill will increase the number of cases the parole panel reviews and considers, the number of cases for which the Institutional Parole Office prepares a case summary, the number of cases the analysts review, and the number of cases conducted by hearing officers. The BPP would require additional staff to include two Board Commissioners, two Admin. Asst. IV, 12 Hearing Officer III, 37 Institutional Parole Officers II, 11 Clerk II, resulting in 64.0 FTEs for a total of \$3,734,486 for fiscal year 2022 and \$3,624,231 for fiscal years 2023-26. Lease space per fiscal year is \$81,335 and consumables supplies per fiscal year is \$26,795.

The Office of Court Administration (OCA) estimates the bill would result in a loss to the state of \$521,771 in criminal court costs. The Texas Alcoholic Beverage Commission, Health and Human Services Commission do not anticipate a significant fiscal impact.

Technology

According to the BPP, the agency would require computers, monitors, and software to support new staff, costing \$110,255 in fiscal year 2022.

Local Government Impact

According to the OCA, the bill would result in a gain to counties of \$247,154. Since district courts generally handle felony cases and county courts (or county courts at law) handle misdemeanor cases, there will be an impact on shifting the caseload from the district courts to the county courts. OCA assumes due to decreasing criminal case workload in the county courts over the past decade, the increase in workload can be absorbed with existing resources. Counties may also see a decrease in the cost of appointed counsel, as counsel in felony cases are generally paid at a higher rate than counsel in misdemeanor cases; however, this amount will vary by jurisdiction. Counties may also see an increase in jail costs for individuals who are confined as punishment for a conviction of a previously designated state jail felony; however, OCA assumes that most individuals will not be confined as part of the sentence but rather placed on probation or sentenced to time served for the offense.

The offenses created by the bill would be a Class A and Class B misdemeanor. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

No significant fiscal impact to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 458 Alcoholic Beverage Commission, 529 Hlth & Human Svcs Comm, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

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