

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 14, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1402 by Johnson, Ann (Relating to a criminal offense committed against a person because of bias or prejudice on the basis of sexual orientation or gender identity.), **As Introduced**

The probable fiscal impact of implementing the bill's provisions is indeterminate due to a lack of statewide data containing the level of detail necessary to distinguish cases in which an offense was motivated by bias or prejudice because of an individual's sexual orientation or gender identity from all others cases in which an offense was not motivated by such bias or prejudice. While the data necessary to determine the full extent of the fiscal implications associated with implementing the bill's provisions are not available, providing for penalty enhancement would result in fiscal implications to the State and an increase in the demand for state correctional resources.

The bill would amend the Code of Criminal Procedure as it relates to the affirmative finding of bias or prejudice. The bill would expand the list of group types against which specific offenses would require a judge to enter an affirmative finding that an actor selected a victim with intentional bias or prejudice because of the victim's membership in the group. An affirmative finding of this type, as outlined in the bill, could be used to enhance the penalty for a certain offenses.

Whether the bill would result in a significant fiscal impact on state correctional resources is indeterminate due to a lack of statewide data containing the level of detail necessary to separate cases in which an offense was motivated by bias or prejudice because of an individual's sexual orientation or gender identity from all others cases. Because an affirmative finding of bias or prejudice may be used to enhance the penalty for an offense, these data are necessary to estimate the potential fiscal impact associated with the number of penalty enhancements. The Office of Court Administration indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact to the state court system.

Local Government Impact

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

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKn, LM, DGi, AF