

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 19, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3772 by White (Relating to the criminal and licensing consequences of certain criminal offenses involving the possession or delivery of marihuana and cannabis concentrate or possession of drug paraphernalia; imposing a fee; authorizing a fine.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3772, As Introduced: a negative impact of (\$28,298,574) 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	(\$17,474,234)
2023	(\$11,846,653)
2024	(\$12,748,406)
2025	(\$11,772,733)
2026	(\$12,821,696)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Change in Number of State Employees from FY 2021
2022	(\$16,475,241)	(\$998,993)	99.0
2023	(\$11,823,333)	(\$23,320)	99.0
2024	(\$11,749,413)	(\$998,993)	99.0
2025	(\$11,749,413)	(\$23,320)	99.0
2026	(\$11,822,703)	(\$998,993)	99.0

Fiscal Analysis

This bill would amend the Health and Safety Code as it relates to the Texas Controlled Substances Act and the definition of “marihuana” and add a definition of “cannabis concentrate”.

The bill would modify and expand offenses related to the delivery and possession of marihuana.

The bill would allow an individual whose driver license is suspended under Sections 481.121 (b) (1) or 481.125 (a) of the Health and Safety Code to expunge certain records.

The bill would amend the Code of Criminal Procedure as it relates to the expunction of certain records and fines for certain convictions. The bill would require a person who requests expungement to pay a \$30 fee. The bill would require defendants convicted of certain offenses to pay a fine in an amount that is equivalent to the sum of all fees applicable to a suspension and reinstatement of a driver's license, with certain exceptions.

The bill would require the Department of Public Safety (DPS) to annually calculate and make available the amount of the fine described in Code of Criminal Procedure Section 102.0179.

Methodology

According to DPS, the bill would require additional resources in the areas of marijuana submissions and cannabis concentrate/delta-9-tetrahydrocannabinol (THC) submissions. The agency estimates a 12.5 percent increase in each fiscal year to project the number of marijuana item submissions for the cost estimate.

DPS indicates that 75.0 Forensic Scientists, 8.0 supervisory Forensic Scientist VI positions, 6.0 Crime Laboratory Specialist III positions, 2.0 Quality Assurance III Specialist, and 8.0 Program Specialist V positions would be needed. The total cost for hiring 99.0 FTEs is estimated to be \$8,132,720 in each fiscal year, which includes salary, benefits, and other personnel costs.

Additionally, DPS indicates that Crime Labs are at full space capacity and any new FTEs would need to be housed in additional space. DPS proposes three locations in the Dallas, Austin, and Weslaco area to operate new labs for the purpose of this bill, with rent estimated to cost \$1,224,373 per fiscal year. Capital equipment costs and ongoing maintenance contracts for equipment are also included at a rate of one liquid chromatography mass spectrometry instrument for every three forensic scientists. Cost estimate also includes four vehicles – one for every ten Forensic Scientists or section. Capital expenses are estimated to cost \$3,015,045 in fiscal year 2022 and \$73,920 in fiscal years 2023 and 2026.

According to DPS, by authorizing the possession, manufacture, and distribution of cannabis products with less than 1 percent THC, the bill would eliminate any reason for a Compassionate Use Program (CUP) dispensing organization to retain its license or register its employees, as well as any need for a patient to obtain a prescription. Absent any licensees or patients with prescriptions there would be no need for the Compassionate Use Registry.

This bill would result in an estimated revenue loss to General Revenue each year due to the elimination of license and registration fees for dispensing organizations and their employees.

There are three dispensing organizations and each pays a license fee of \$318,511 every two years. All three dispensing organizations have a two-year renewal period and each received their first license in fiscal year 2020. Additionally, as of fiscal year 2020, there were 82 registrants, each paying a license fee of \$530. Total estimated revenue loss in fiscal year 2022, 2024, and 2026 is \$998,993 each year.

During fiscal year 2019, 44 registrants paid \$530 each for a license. Assuming the same number of applicants apply in fiscal years 2023 and 2025, total estimated revenue loss is \$23,320 in fiscal years 2023 and 2025.

Currently, a \$100 fee must be paid prior to reinstatement of a driver's license that has been suspended. Under provisions of the bill, individuals convicted of certain drug offenses or offenses under the Controlled Substances Act would also pay the reinstatement fee. The additional fee imposed on certain drug and Texas Controlled Substances Act convictions would be deposited to the Texas Mobility Fund - 0365, but revenue amounts cannot be determined at this time.

DPS indicates that while the bill would impact the Federal Highway Administration's Annual Drug Certification Report by reducing the number of suspensions or denials that are reported each year, it is assumed the bill would not put the State of Texas out of compliance with 23 U.S.C. Section 159, and thus not jeopardize state highway funding.

Changing the penalties for a criminal offense could result in additional demands on the correctional resources of the counties or of the State due to a change to the number of individuals placed under supervision in the

community, sentenced to terms of confinement in state correctional institutions, or placed under parole supervision. The bill may have a negative fiscal impact by changing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant population impact is indeterminate due to the lack of information on the characteristics of marijuana-related offenses, including whether offenses involve cannabis concentrate, the amount of delta-9 tetrahydrocannabinol, whether individuals received remuneration, and the weight or amount of marijuana involved in offenses. This information is necessary to identify the cases affected by the provisions of the bill and differentiate between the levels of punishment that would be applied under the provisions of the bill.

Local Government Impact

This bill would require the court collect fines equivalent to the sum of all fees applicable to a suspension and reinstatement of a driver license if the court does not suspend a person's license. According to DPS, a method will have to be created for the courts to report the amount of fines collected under Section 521.372 (a) of the Transportation Code and for DPS to calculate annually and make available the amount of the fine collected.

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JMc, DKN, KFB, NA