

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 8, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB21 by Huffman (relating to rules for fixing the amount of bail, to the release of certain defendants on a bail bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB21, Committee Report 1st House, Substituted : a negative impact of (\$11,238,738) 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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$6,505,727)
2023	(\$4,734,011)
2024	(\$4,800,153)
2025	(\$4,961,816)
2026	(\$4,933,020)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$6,505,727)	50.0
2023	(\$4,734,011)	50.0
2024	(\$4,800,153)	50.0
2025	(\$4,961,816)	50.0
2026	(\$4,933,020)	50.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to provide that defendants charged with committing an offense while released on bail for another offense could only be released on bail by the court before whom the case of the previous offense is pending. The bill would also provide that defendants charged with certain offenses could only be released on personal bond by the court before whom the case is pending. Certain defendants would be ineligible for release on personal bond under the bill's provisions.

The bill would require the Department of Public Safety (DPS) to provide training to magistrates, judges, sheriffs, peace officers, and jailers required to obtain criminal history record information. The bill would require the Office of Court Administration (OCA) to promulgate a form related to bail release, and for magistrates, judges, sheriffs, peace officers, and jailers to complete the form and return it to OCA. OCA would be required to publish each form in a publicly accessible database.

Under the bill's provisions, a charitable bail organization would not be able to post the bail for misdemeanor or felony offenders who are charged with or have been previously convicted of certain violent offenses.

The bill would take effect September 1, 2021.

Methodology

Costs reflected in the table above are based on the analysis provided by the OCA and DPS.

According to OCA, the agency would need to modify its Court Activity Reporting Database, a legacy information technology system, to capture the required data. The agency estimates the cost of this modification to be \$500,000, which would be a one-time cost in fiscal year 2022. The agency anticipates being able to provide ongoing support in subsequent fiscal years with existing resources.

OCA estimates that 26.0 FTEs would be needed to implement the provisions of the bill related to publishing bail forms received from magistrates, judges, sheriffs, peace officers, and jailers. According to analysis provided by the agency, DPS reports there were 683,510 arrests in fiscal year 2019. The requirement that a form be completed during each bail setting proceeding and submitted to OCA for inclusion on a publicly available website will mean that OCA anticipates receiving 683,510 forms that must be processed annually, or 13,144 per week and 2,629 per day. The agency anticipates that one FTE can process 100 forms per day. Salary costs for these positions would total \$1,351,610 in fiscal year 2022; \$1,392,158 in fiscal year 2023; \$1,433,923 in fiscal year 2024; \$1,476,941 in fiscal year 2025; and \$1,521,249 in fiscal year 2026. Operating and payroll related benefit costs would total \$1,248,072 in fiscal year 2022; \$938,384 in fiscal year 2023; \$962,761 in fiscal year 2024; \$1,081,406 in fiscal year 2025; and \$1,008,302 in fiscal year 2026.

DPS estimates that 24.0 FTEs would be necessary to implement the provisions of the bill. According to DPS, the Crime Records Division would need to create a new team that would be responsible for providing adequate training to magistrates, judges, sheriffs, peace officers, and jailers that would be required to obtain criminal history record information training under the provisions of the bill. According to DPS, this would be in person training in classes of no more than 30 participants and would also require training manuals to be created and updated. The team would consist of 20 training specialist, 1 supervisor. In addition, 3 Program Specialist Vs are needed for indirect support. Salary costs for these positions would total \$1,366,504 for fiscal years 2022-2026. Operating and payroll related benefit costs would total \$2,039,541 in fiscal year 2022 and \$1,036,965 for each subsequent year.

Technology

Based on information provided by the agency, it is assumed that costs necessary to modify the agency's Court Activity Reporting Database would be \$500,000.

Local Government Impact

According to the Justices of the Peace and Constables Association of Texas, the bill would create additional burdens for counties and justice courts. The fiscal impact includes additional court staff to accommodate bond hearings within 48 hours of detention and the cost of additional education requirements for justices of the peace. Additionally, counties may expect increased costs for higher trial courts, as they would be the only court with jurisdiction to set personal bonds.

According to Harris County, approximately 11,000 additional people being detained in the Harris County jail

for an average length of stay of 100 days would result in an additional annual cost of \$109 million. This estimate does not include capital expenditure for new construction to expand jail capacity, the cost of possible litigation, or the fiscal impact of the provision limiting charitable bail organization activities.

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety

LBB Staff: JMc, SLE, MW, BH, SD, AF