

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 2, 2021**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB768** by Huffman (Relating to increasing the criminal penalties for manufacture or delivery of fentanyl and related substances; creating a criminal offense.), **As Engrossed**

**Increasing the minimum term of confinement is expected to result in additional demands on correctional resources. The probable fiscal impact of implementing the bill is indeterminate due to the lack of information or data to distinguish manufacture or delivery of fentanyl or fentanyl derivatives cases from all other manufacture or delivery of controlled substances in penalty group one cases. This information is necessary to determine the full extent of the fiscal implications associated with implementing the proposed penalty changes and modifications to community supervision eligibility.**

**The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The Texas Department of Criminal Justice is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the department may, but is not required to, implement this Act using other appropriations available for the purpose.**

The bill would amend various codes as they relate to manufacture or delivery of fentanyl and related substances. Under the provisions of the bill, fentanyl or any derivative of fentanyl would be transferred to newly created penalty group complete with criminal penalties for possession, manufacture, or delivery of with some enhanced under certain circumstances and others no longer be eligible for certain types of community supervision.

The bill may have a negative fiscal impact by increasing the amount of time individuals are incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of information on the number of cases where the manufacture or delivery of a controlled substance involved fentanyl or one of its derivatives. The Office of Court Administration indicates they do not anticipate 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, SPA