

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

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

**March 17, 2021**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on 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 Introduced**

**Increasing a penalty to a higher degree level is expected to result in additional demands on State 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 penalty group one controlled substances 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 amend various codes as they relate to the manufacture or delivery of fentanyl and related substances. Under the provisions of the bill, fentanyl or any derivative of fentanyl would be transferred to a newly created penalty group. Depending upon the circumstances of the offense individuals may be ineligible for community supervision or have cases eligible for penalty enhancement. Additionally, a judge may grant deferred adjudication community supervision for certain driving while intoxicated or boating while intoxicated offenses, while certain enhanced intoxication offenses would no longer be eligible for deferred community supervision.

The bill may have a negative fiscal impact by increasing the number of people under felony community supervision or 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.

**Local Government Impact**

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

**Source Agencies:** 212 Office of Court Admin

**LBB Staff:** JMc, SLE, LM, AF, SPa