

# SENATE AMENDMENTS

**2<sup>nd</sup> Printing**

By: Moody, Guillen

H.B. No. 2593

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 481.002(5) and (6), Health and Safety Code, are amended to read as follows:

(5) "Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Section 121.001, Agriculture Code, or the tetrahydrocannabinols in hemp.

(6) "Controlled substance analogue" means:

(A) a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, ~~[ex]~~ 2-A, or 2-B; or

(B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, ~~[ex]~~ 2-A, or 2-B.

SECTION 2. Section 481.103(a), Health and Safety Code, is amended to read as follows:

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

5-(2-aminopropyl)benzofuran (5-APB);

6-(2-aminopropyl)benzofuran (6-APB);

5-(2-aminopropyl)-2,3-dihydrobenzofuran  
(5-APDB);

6-(2-aminopropyl)-2,3-dihydrobenzofuran  
(6-APDB);

5-(2-aminopropyl)indole (5-IT,5-API);

6-(2-aminopropyl)indole (6-IT,6-API);

1-(benzofuran-5-yl)-N-methylpropan-2-amine  
(5-MAPB);

1-(benzofuran-6-yl)-N-methylpropan-2-amine  
(6-MAPB);

Benzothiophenylcyclohexylpiperidine (BTCP);

8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran-  
4-ethanamine (trade or other name: Bromo-DragonFLY);

Desoxypipradrol (2-benzhydrylpiperidine);

2, 5-dimethoxyamphetamine (some trade or other  
names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

Diphenylprolinol (diphenyl(pyrrolidin-2-yl)  
methanol, D2PM);

Dronabinol (synthetic) in sesame oil and

encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

2-ethylamino-2-(3-methoxyphenyl)cyclohexanone (trade or other name: methoxetamine);

Ibogaine (some trade or other names: 7-Ethyl-6,6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

5-iodo-2-aminoindane (5-IAI);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

4-methoxymethamphetamine (PMMA);

2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone (some trade and other names: 2-MeO-ketamine; methoxyketamine);

1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PPMP);

4-methyl-2, 5-dimethoxyamphetamine (some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-

1 methylphenethylamine; "DOM"; "STP");  
2 3,4-methylenedioxy methamphetamine (MDMA, MDM);  
3 3,4-methylenedioxy amphetamine;  
4 3,4-methylenedioxy N-ethylamphetamine (Also  
5 known as N-ethyl MDA);  
6 5,6-methylenedioxy-2-aminoindane (MDAI);  
7 Nabilone (Another name for nabilone: (+)-trans-  
8 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,  
9 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;  
10 N-benzylpiperazine (some trade or other  
11 names: BZP; 1-benzylpiperazine);  
12 N-ethyl-3-piperidyl benzilate;  
13 N-hydroxy-3,4-methylenedioxyamphetamine (Also  
14 known as N-hydroxy MDA);  
15 4-methylaminorex;  
16 N-methyl-3-piperidyl benzilate;  
17 Parahexyl (some trade or other names: 3-Hexyl-1-  
18 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d]  
19 pyran; Synhexyl);  
20 1-Phenylcyclohexylamine;  
21 1-Piperidinocyclohexanecarbonitrile (PCC);  
22 Pyrrolidine Analog of Phencyclidine (some trade  
23 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);  
24 ~~[Tetrahydrocannabinols, other than marijuana, and~~  
25 ~~synthetic equivalents of the substances contained in the plant, or~~  
26 ~~in the resinous extractives of Cannabis, or synthetic substances,~~  
27 ~~derivatives, and their isomers with similar chemical structure and~~

~~pharmacological activity such as:~~

~~[delta-1 cis or trans tetrahydrocannabinol,  
and their optical isomers;~~

~~[delta-6 cis or trans tetrahydrocannabinol,  
and their optical isomers;~~

~~[delta-3, 4 cis or trans  
tetrahydrocannabinol, and its optical isomers; or~~

~~[compounds of these structures, regardless  
of numerical designation of atomic positions, since nomenclature of  
these substances is not internationally standardized;]~~

Thiophene Analog of Phencyclidine (some trade or  
other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl  
Analog of Phencyclidine; TPCP, TCP);

1-pyrrolidine (some trade or other name: TCPy);

1-(3-trifluoromethylphenyl)piperazine (trade or  
other name: TFMPP); and

3,4,5-trimethoxy amphetamine;

(2) Phenylacetone (some trade or other  
names: Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl  
ketone);

(3) unless specifically excepted or unless listed in  
another Penalty Group, a material, compound, mixture, or  
preparation that contains any quantity of the following substances  
having a potential for abuse associated with a depressant or  
stimulant effect on the central nervous system:

Aminorex (some trade or other  
names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-

1 phenyl-2-oxazoline);  
2 Amphetamine, its salts, optical isomers, and  
3 salts of optical isomers;  
4 Cathinone (some trade or other names: 2-amino-1-  
5 phenyl-1-propanone, alpha-aminopropiophenone, 2-  
6 aminopropiophenone);  
7 Etaqualone and its salts;  
8 Etorphine Hydrochloride;  
9 Fenethylline and its salts;  
10 Lisdexamfetamine, including its salts, isomers,  
11 and salts of isomers;  
12 Mecloqualone and its salts;  
13 Methaqualone and its salts;  
14 Methcathinone (some trade or other names: 2-  
15 methylamino-propionophenone; alpha-(methylamino)propionophenone;  
16 2-(methylamino)-1-phenylpropan-1-one; alpha-N-  
17 methylaminopropionophenone; monomethylpropion; ephedrone, N-  
18 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR  
19 1431);  
20 N-Ethylamphetamine, its salts, optical isomers,  
21 and salts of optical isomers; and  
22 N,N-dimethylamphetamine (some trade or other  
23 names: N,N,alpha-trimethylbenzeneethanamine;  
24 N,N,alpha-trimethylphenethylamine), its salts, optical isomers,  
25 and salts of optical isomers;  
26 (4) any compound structurally derived from  
27 2-aminopropanal by substitution at the 1-position with any

1 monocyclic or fused-polycyclic ring system, including:

2 (A) compounds further modified by:

3 (i) substitution in the ring system to any  
4 extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or  
5 halide substituents), whether or not further substituted in the  
6 ring system by other substituents;

7 (ii) substitution at the 3-position with an  
8 alkyl substituent; or

9 (iii) substitution at the 2-amino nitrogen  
10 atom with alkyl, benzyl, dialkyl, or methoxybenzyl groups, or  
11 inclusion of the 2-amino nitrogen atom in a cyclic structure; and

12 (B) by example, compounds such as:

13 4-Methylmethcathinone (Also known as  
14 Mephedrone);

15 3,4-Dimethylmethcathinone (Also known as  
16 3,4-DMMC);

17 3-Fluoromethcathinone (Also known as 3-FMC);

18 4-Fluoromethcathinone (Also known as  
19 Flephedrone);

20 3,4-Methylenedioxy-N-methylcathinone (Also  
21 known as Methylone);

22 3,4-Methylenedioxypyrovalerone (Also known  
23 as MDPV);

24 alpha-Pyrrolidinopentiophenone (Also known  
25 as alpha-PVP);

26 Naphthylpyrovalerone (Also known as  
27 Naphyrone);

alpha-Methylamino-valerophenone (Also known  
as Pentedrone);

beta-Keto-N-methylbenzodioxolylpropylamine  
(Also known as Butylone);

beta-Keto-N-methylbenzodioxolylpentanamine  
(Also known as Pentylone);

beta-Keto-Ethylbenzodioxolylbutanamine  
(Also known as Eutylone); and

3,4-methylenedioxy-N-ethylcathinone (Also  
known as Ethylone);

(5) any compound structurally derived from tryptamine  
(3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

(A) by modification in any of the following ways:

(i) by substitution at the amine nitrogen  
atom of the sidechain to any extent with alkyl or alkenyl groups or  
by inclusion of the amine nitrogen atom of the side chain (and no  
other atoms of the side chain) in a cyclic structure;

(ii) by substitution at the carbon atom  
adjacent to the nitrogen atom of the side chain (alpha-position)  
with an alkyl or alkenyl group;

(iii) by substitution in the 6-membered  
ring to any extent with alkyl, alkoxy, haloalkyl, thioalkyl,  
alkylenedioxy, or halide substituents; or

(iv) by substitution at the 2-position of  
the tryptamine ring system with an alkyl substituent; and

(B) including:

(i) ethers and esters of the controlled



1 substances listed in this subdivision; and  
2 (ii) by example, compounds such as:  
3 alpha-ethyltryptamine;  
4 alpha-methyltryptamine;  
5 Bufotenine (some trade and other names:  
6 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;  
7 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin;  
8 5-hydroxy-N, N- dimethyltryptamine; mappine);  
9 Diethyltryptamine (some trade and  
10 other names: N, N-Diethyltryptamine, DET);  
11 Dimethyltryptamine (trade or other  
12 name: DMT);  
13 5-methoxy-N, N-diisopropyltryptamine  
14 (5-MeO-DiPT);  
15 O-Acetylpsilocin (Trade or other name:  
16 4-Aco-DMT);  
17 Psilocin; and  
18 Psilocybin;  
19 (6) 2,5-Dimethoxyphenethylamine and any compound  
20 structurally derived from 2,5-Dimethoxyphenethylamine by  
21 substitution at the 4-position of the phenyl ring to any extent  
22 (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide  
23 substituents), including, by example, compounds such as:  
24 4-Bromo-2,5-dimethoxyphenethylamine (trade or  
25 other name: 2C-B);  
26 4-Chloro-2,5-dimethoxyphenethylamine (trade or  
27 other name: 2C-C);

1                   2,5-Dimethoxy-4-methylphenethylamine (trade or  
2 other name: 2C-D);  
3                   4-Ethyl-2,5-dimethoxyphenethylamine (trade or  
4 other name: 2C-E);  
5                   4-Iodo-2,5-dimethoxyphenethylamine (trade or  
6 other name: 2C-I);  
7                   2,5-Dimethoxy-4-nitrophenethylamine (trade or  
8 other name: 2C-N);  
9                   2,5-Dimethoxy-4-(n)-propylphenethylamine (trade  
10 or other name: 2C-P);  
11                  4-Ethylthio-2,5-dimethoxyphenethylamine (trade  
12 or other name: 2C-T-2);  
13                  4-Isopropylthio-2,5-dimethoxyphenethylamine  
14 (trade or other name: 2C-T-4); and  
15                  2,5-Dimethoxy-4-(n)-propylthiophenethylamine  
16 (trade or other name: 2C-T-7); and  
17                  (7) 2,5-Dimethoxyamphetamine and any compound  
18 structurally derived from 2,5-Dimethoxyamphetamine by substitution  
19 at the 4-position of the phenyl ring to any extent (including alkyl,  
20 alkoxy, alkylenedioxy, haloalkyl, or halide substituents),  
21 including, by example, compounds such as:  
22                  4-Ethylthio-2,5-dimethoxyamphetamine (trade or  
23 other name: Aleph-2);  
24                  4-Isopropylthio-2,5-dimethoxyamphetamine (trade  
25 or other name: Aleph-4);  
26                  4-Bromo-2,5-dimethoxyamphetamine (trade or other  
27 name: DOB);

1                   4-Chloro-2,5-dimethoxyamphetamine   (trade    or  
2 other name: DOC);  
3                   2,5-Dimethoxy-4-ethylamphetamine (trade or other  
4 name: DOET);  
5                   4-Iodo-2,5-dimethoxyamphetamine (trade or other  
6 name: DOI);  
7                   2,5-Dimethoxy-4-methylamphetamine   (trade    or  
8 other name: DOM);  
9                   2,5-Dimethoxy-4-nitroamphetamine (trade or other  
10 name: DON);  
11                  4-Isopropyl-2,5-dimethoxyamphetamine (trade or  
12 other name: DOIP); and  
13                  2,5-Dimethoxy-4-(n)-propylamphetamine (trade or  
14 other name: DOPR).

15           SECTION 3. Subchapter D, Chapter 481, Health and Safety  
16 Code, is amended by adding Section 481.1032 to read as follows:

17           Sec. 481.1032. PENALTY GROUP 2-B. (a) Penalty Group 2-B  
18 consists of any quantity of the following substances, their salts,  
19 isomers, and salts of isomers, unless specifically excepted, if the  
20 existence of these salts, isomers, and salts of isomers is possible  
21 within the specific chemical designation:

22           Tetrahydrocannabinols, other than marihuana, and  
23 synthetic equivalents of the substances contained in the plant, or  
24 in the resinous extractives of Cannabis, or synthetic substances,  
25 derivatives, and their isomers with similar chemical structure and  
26 pharmacological activity such as:

27           delta-1 cis or trans tetrahydrocannabinol, and

1 their optical isomers;  
2 delta-6 cis or trans tetrahydrocannabinol, and  
3 their optical isomers;  
4 delta-3, 4 cis or trans tetrahydrocannabinol, and  
5 its optical isomers; or  
6 compounds of these structures, regardless of  
7 numerical designation of atomic positions, since nomenclature of  
8 these substances is not internationally standardized.

9 (b) For the purposes of this section, the term "isomer"  
10 includes an optical, position, or geometric isomer.

11 SECTION 4. Section 481.106, Health and Safety Code, is  
12 amended to read as follows:

13 Sec. 481.106. CLASSIFICATION OF CONTROLLED SUBSTANCE  
14 ANALOGUE. For the purposes of the prosecution of an offense under  
15 this subchapter involving the manufacture, delivery, or possession  
16 of a controlled substance, Penalty Groups 1, 1-A, 2, ~~[and]~~ 2-A, and  
17 2-B include a controlled substance analogue that:

18 (1) has a chemical structure substantially similar to  
19 the chemical structure of a controlled substance listed in the  
20 applicable penalty group; or

21 (2) is specifically designed to produce an effect  
22 substantially similar to, or greater than, a controlled substance  
23 listed in the applicable penalty group.

24 SECTION 5. The heading to Section 481.113, Health and  
25 Safety Code, is amended to read as follows:

26 Sec. 481.113. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE  
27 IN PENALTY GROUP 2, ~~[OR]~~ 2-A, OR 2-B.

SECTION 6. Section 481.113(a), Health and Safety Code, is amended to read as follows:

(a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 2, ~~[or]~~ 2-A, or 2-B.

SECTION 7. The heading to Section 481.1161, Health and Safety Code, is amended to read as follows:

Sec. 481.1161. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 2-A OR 2-B.

SECTION 8. Section 481.1161(a), Health and Safety Code, is amended to read as follows:

(a) Except as authorized by this chapter, a person commits an offense if the person knowingly possesses a controlled substance listed in Penalty Group 2-A or 2-B, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice.

SECTION 9. Section 481.122(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly delivers a controlled substance listed in Penalty Group 1, 1-A, 2, 2-B, or 3 or knowingly delivers marihuana and the person delivers the controlled substance or marihuana to a person:

(1) who is a child;

(2) who is enrolled in a public or private primary or secondary school; or

(3) who the actor knows or believes intends to deliver

1 the controlled substance or marihuana to a person described by  
2 Subdivision (1) or (2).

3 SECTION 10. Sections 551.003(11) and (12), Occupations  
4 Code, are amended to read as follows:

5 (11) "Controlled substance" means a substance,  
6 including a drug:

7 (A) listed in Schedule I, II, III, IV, or V, as  
8 established by the commissioner of public health under Chapter 481,  
9 Health and Safety Code, or in Penalty Group 1, 1-A, 2, 2-B, 3, or 4,  
10 Chapter 481; or

11 (B) included in Schedule I, II, III, IV, or V of  
12 the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21  
13 U.S.C. Section 801 et seq.).

14 (12) "Dangerous drug" means a drug or device that:

15 (A) is not included in Penalty Group 1, 2, 2-B, 3,  
16 or 4, Chapter 481, Health and Safety Code, and is unsafe for  
17 self-medication; or

18 (B) bears or is required to bear the legend:

19 (i) "Caution: federal law prohibits  
20 dispensing without prescription" or "Rx only" or another legend  
21 that complies with federal law; or

22 (ii) "Caution: federal law restricts this  
23 drug to use by or on the order of a licensed veterinarian."

24 SECTION 11. The change in law made by this Act applies only  
25 to an offense committed on or after the effective date of this Act.  
26 An offense committed before the effective date of this Act is  
27 governed by the law in effect when the offense was committed, and

H.B. No. 2593

1 the former law is continued in effect for that purpose. For purposes  
2 of this section, an offense was committed before the effective date  
3 of this Act if any element of the offense occurred before that date.

4 SECTION 12. This Act takes effect September 1, 2021.

ADOPTED

MAY 21 2021

3rd Reading  
Lacey Law  
Secretary of the Senate

Chris Farn

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend H.B. No. 2593 (senate committee printing) in SECTION 1  
2 of the bill, in amended Section 481.002(5), Health and Safety Code  
3 (page 1, line 13), between "in hemp" and the period by inserting  
4 ", except that the term includes a consumable hemp product, as  
5 defined by Section 443.001, if the sum of all tetrahydrocannabinol  
6 concentrations in the product is more than 0.3 percent on a dry  
7 weight basis".



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 24, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

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

**IN RE: HB2593** by Moody (Relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.), **As Passed 2nd House**

**Decreasing the penalties for a criminal offense is expected to result in fewer demands on the correctional resources of the counties or of the State. The probable fiscal impact of implementing the bill is indeterminate due to the lack of information or data to distinguish possession of tetrahydrocannabinols cases from all other possession of a controlled substance in penalty group 2 cases. This information is necessary to determine the full extent of the fiscal implications associated with implementing the proposed penalty changes.**

The bill would amend various codes as they relate to possession of certain tetrahydrocannabinols and related substances. Under the provisions of the bill, tetrahydrocannabinols and its related substances as outlined in the bill would be transferred to newly created penalty group and criminal penalties for possession would be punishable as a misdemeanor or felony depending on the circumstances of the offense.

The bill may have a positive fiscal impact by decreasing 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 possession of a controlled substance involved tetrahydrocannabinols or a related substance as outlined in the bill.

According to the Office of Court Administration (OCA), the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to the state as a result of implementing the bill's provisions.

**Local Government Impact**

According to the OCA, the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to local governments.

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

**LBB Staff:** JMc, LBO, LM, SPA, SMAT, DKN

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 15, 2021**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

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

**IN RE: HB2593** by Moody (Relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.), **As Engrossed**

**Decreasing the penalties for a criminal offense is expected to result in fewer demands on the correctional resources of the counties or of the State. The probable fiscal impact of implementing the bill is indeterminate due to the lack of information or data to distinguish possession of tetrahydrocannabinols cases from all other possession of a controlled substance in penalty group 2 cases. This information is necessary to determine the full extent of the fiscal implications associated with implementing the proposed penalty changes.**

The bill would amend various codes as they relate to possession of certain tetrahydrocannabinols and related substances. Under the provisions of the bill, tetrahydrocannabinols and its related substances as outlined in the bill would be transferred to newly created penalty group and criminal penalties for possession would be punishable as a misdemeanor or felony depending on the circumstances of the offense.

The bill may have a positive fiscal impact by decreasing 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 possession of a controlled substance involved tetrahydrocannabinols or a related substance as outlined in the bill.

According to the Office of Court Administration (OCA), the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to the state as a result of implementing the bill's provisions.

**Local Government Impact**

According to the Office of Court Administration (OCA), the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to local governments.

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

**LBB Staff:** JMc, SMAT, DKN, LM, SPA

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

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

**April 5, 2021**

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

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

**IN RE: HB2593** by Moody (Relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.), **As Introduced**

**Decreasing the penalties for a criminal offense is expected to result in fewer demands on the correctional resources of the counties or of the State. The probable fiscal impact of implementing the bill is indeterminate due to the lack of information or data to distinguish possession of tetrahydrocannabinols cases from all other possession of a controlled substance in penalty group 2 cases. This information is necessary to determine the full extent of the fiscal implications associated with implementing the proposed penalty changes.**

The bill would amend various codes as they relate to possession of certain tetrahydrocannabinols and related substances. Under the provisions of the bill, tetrahydrocannabinols and its related substances as outlined in the bill would be transferred to newly created penalty group and criminal penalties for possession would be punishable as a misdemeanor or felony depending on the circumstances of the offense.

The bill may have a positive fiscal impact by decreasing 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 possession of a controlled substance involved tetrahydrocannabinols or a related substance as outlined in the bill.

According to the Office of Court Administration (OCA), the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to the state as a result of implementing the bill's provisions.

**Local Government Impact**

According to the Office of Court Administration (OCA), the number of cases that would fall into the new offense categories is indeterminate; however, OCA does not anticipate a significant fiscal impact to local governments.

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

**LBB Staff:** JMc, DKN, LM, SPA

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 24, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

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

**IN RE: HB2593** by Moody (Relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to possession of certain tetrahydrocannabinols and related substances. Under the provisions of the bill, tetrahydrocannabinols and its related substances as outlined in the bill would be transferred to a newly created penalty group and criminal penalties for possession would be punishable as a misdemeanor or felony depending on the circumstances of the offense. Under existing statute, possession of controlled substances in penalty group 2 is punishable as any felony depending on the aggregate weight of the substance and the specific circumstances of the offense.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or a class A misdemeanor. In addition to confinement, most felonies have an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000.

Decreasing the penalties for a criminal offense is expected to result in fewer demands on the correctional resources of the counties or of the State due to a decrease in the length of stay and number of individuals sentenced to terms of confinement in state correctional institutions or placed under parole supervision. From fiscal years 2018 through 2020, an average of 16,434 people were arrested, 1,267 people were placed onto felony direct community supervision, and 387 people were admitted into a state correctional institution for the offenses of possession of a controlled substance in penalty group 2 under existing statute. The bill may have a positive population impact by decreasing the number of people under 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 number of cases where the possession of a controlled substance involved tetrahydrocannabinols or a related substance as outlined in the bill. This information is necessary to identify the cases that would be affected by the provisions of the bill from all other possession of a controlled substance cases.

**Source**

**Agencies:**

**LBB Staff:** JMc, LBO, LM, SPA, DKN

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**April 5, 2021**

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

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

**IN RE: HB2593** by Moody (Relating to the criminal penalties for the possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to possession of certain tetrahydrocannabinols and related substances. Under the provisions of the bill, tetrahydrocannabinols and its related substances as outlined in the bill would be transferred to a newly created penalty group and criminal penalties for possession would be punishable as a misdemeanor or felony depending on the circumstances of the offense. Under existing statute, possession of controlled substances in penalty group 2 would be punishable as any felony depending on the aggregate weight of the substance and the specific circumstances of the offense.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or a class A misdemeanor. In addition to confinement, most felonies have an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000.

Decreasing the penalties for a criminal offense is expected to result in fewer demands on the correctional resources of the counties or of the State due to a decrease in the length of stay and number of individuals sentenced to terms of confinement in state correctional institutions or placed under parole supervision. From fiscal years 2018 through 2020, an average of 16,434 people were arrested, 1,267 people were placed onto felony direct community supervision, and 387 people were admitted into a state correctional institution for the offenses of possession of a controlled substance in penalty group 2 under existing statute.

The bill may have a positive population impact by decreasing the number of people under 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 number of cases where the possession of a controlled substance involved tetrahydrocannabinols or a related substance as outlined in the bill. This information is necessary to identify the cases that would be affected by the provisions of the bill from all other possession of a controlled substance cases.

**Source**

**Agencies:**

**LBB Staff:** JMc, DKN, LM, SPA