

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 11, 2023

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB6 by Goldman (Relating to the designation of fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.),
Committee Report 2nd House, Substituted

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would reclassify certain controlled substances from Penalty Group 1 into Penalty Group 1-B. The bill would expand the conduct constituting the offense of murder to include when an actor manufactures or delivers a Penalty Group 1-B controlled substance and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance.

The fiscal impact and any impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

Local Government Impact

The fiscal impact to units of local government cannot be determined and would be dependent on the number of offenses committed and the subsequent penalties.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

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