

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 15, 2023

**TO:** Honorable Abel Herrero, Chair, House Committee on Corrections

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

**IN RE: HB93** by Swanson (Relating to changing the eligibility for community supervision for certain repeat intoxication offenders.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB93, As Introduced : a positive impact of \$3,717,924 through the biennium ending August 31, 2025; however, an estimated negative impact of (\$237,429,205) is anticipated through August, 31, 2028.

Long-term costs related to an increase in the number of individuals admitted into a state correctional institution would begin dependent upon disposition of related cases and admission to a state correctional institution.

Additional significant costs may be anticipated dependent on the number of certain intoxication cases where a defendant has been previously convicted two or more times of any combination of such offenses; however, the fiscal impact cannot be determined due to the lack of statewide data necessary to identify such previous convictions.

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>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$3,717,924
2026	\$7,677,227
2027	(\$118,456,454)
2028	(\$129,827,902)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2024	\$0
2025	\$3,717,924
2026	\$7,677,227
2027	(\$118,456,454)
2028	(\$129,827,902)

**Fiscal Analysis**

The bill would remove eligibility for judge-ordered community supervision for a defendant adjudged guilty of certain intoxication offenses if it is shown that the defendant has been previously convicted two or more times of one of those offenses or any combination of those offenses.

**Methodology**

Population trends based on the February 2023 *Adult and Juvenile Correctional Population Projections* report were analyzed to determine the number of individuals who would no longer be eligible for community supervision under the bill's provisions and instead would likely be admitted into a state correctional institution.

In fiscal year 2022, there were 2,750 individuals who likely would have been admitted into a state correctional facility instead of being placed on community supervision under the bill's provisions for a specific offense of driving, boating, or flying while intoxicated with at least two previous convictions of that same offense. Additionally, 85 of those individuals were admitted into a Substance Abuse Felony Punishment Facility as a condition of felony community supervision. Statewide data does not exist to identify additional cases where a defendant was previously convicted two or more times of any combination of certain intoxication offenses and would not be eligible for community supervision under the bill's provisions.

Savings and costs are based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*. Savings are estimated based on the state uniform costs per day for an adult on felony community supervision (\$2.24), on misdemeanor community supervision (\$0.70), or in a Substance Abuse Felony Punishment Facility (\$89.98). Costs are estimated based on the state uniform costs per day for an adult incarcerated in a Texas Department of Criminal Justice systemwide facility (\$77.49). The estimated impact on adult correctional populations would follow population trends observed in fiscal year 2022, including placements on supervision, admissions to prison, average time between offense and admission, and average length of supervision or stay.

**Local Government Impact**

While the fiscal impact to units of local government cannot be determined, it would be contingent on costs associated with enforcement, prosecution, supervision, or confinement related to certain intoxication offenses.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 696 Department of Criminal Justice

**LBB Staff:** JMc, DDel, LBO, MGol