

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 7, 2023

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB939 by Dutton (Relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.), **As Introduced**

Reducing the penalty for an existing criminal offense may result in reduced demands upon state correctional resources due to a possible decrease in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data necessary to identify all previous convictions of certain possession of a controlled substance or marihuana offenses.

The bill would reduce the punishment for possession of a controlled substance in Penalty Groups 1, 1-B, and 2 of less than one gram and Penalty Group 1-A of fewer than 20 abuse units from a state jail felony to a Class A misdemeanor with a minimum term of confinement of 180 days. The bill would also reduce the punishment for such possession in a drug-free zone from a third-degree felony to a state jail felony. The bill limits these penalty reductions to individuals who have not been previously convicted of certain possession of a controlled substance or marihuana offenses.

The Office of Court Administration (OCA) and the Comptroller of Public Accounts indicate that the fiscal impact of the bill's provisions cannot be determined but that there could be a reduction in revenue due to waived or reduced court costs.

Based on the *February 2023 Criminal and Juvenile Justice Uniform Cost Report*, the fiscal year 2022 uniform cost per day for an individual in a state jail facility was \$73.39, which resulted in an annual cost of \$26,787 per individual. The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data necessary to identify all previous convictions of certain possession of a controlled substance or marihuana offenses.

Local Government Impact

OCA indicates that the fiscal impact to units of local government is indeterminate due to a lack of data to indicate the numbers of individuals who would be first-time drug offenders and qualify for the reduced punishment. While local courts could see increased revenues from processing misdemeanor cases, they could also see increased workloads. OCA additionally notes the potential for increased demands on local correctional facilities as confinement for some of the offenses may be served in county jails.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

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