

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

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

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3200** by Madden (Relating to funding for community supervision and corrections departments.), **As Engrossed**

The probable impact of the bill cannot be determined due to the unavailability of information related to the adoption of the policy by the Community Justice Assistance Division of the Department of Criminal Justice limiting the percentage of benefit or loss local Community Supervision and Corrections Departments could realize as a result of the operation of the per capita funding formula established under this proposal.

The bill would amend the Government Code by establishing a new funding formula for basic supervision probation for the community justice assistance division (CJAD) of the Texas Department of Criminal Justice (TDCJ). The bill would provide for developing a funding formula calculated based on a per diem amount for each offender on felony probation (as opposed to funding direct supervision felony probationers), funding for felons being supervised in pre-trial diversions programs, and misdemeanor defendants placed on community supervision funding for no longer than 182 days of supervision (limited to \$.70 per day). The bill further specifies that in establishing the per capita funding formula, the CJAD would consider the amounts appropriated in the General Appropriations Act for basic supervision to be sufficient to provide basic supervision for each fiscal year in the biennium. Establishing the funding formula would include the following weights which only apply to felony probationers:

- 1) higher per capita rates for those defendants supervised by a department who are serving the early years of a term of community supervision than for those defendants who were serving the end of the term of community supervision;
- 2) penalties in per capital funding with respect to each defendant supervised by a department whose community supervision is revoked due to a technical violation of an applicable condition of community supervision; and
- 3) awards in per capita funding with respect to each felony defendant supervised by a department who is discharged following an early termination of community supervision.

Finally, the bill would authorize the Community Justice Assistance Division of the Department of Criminal Justice to adopt a policy limiting the percentage of benefit or loss a department could realize as a result of the operation of the per capita funding formula established under this measure. The bill amends the Code of Criminal Procedure by providing that a judge granting community supervision shall fix a fee to be paid by the defendant to the court of original jurisdiction, or for intrastate transfers described by Section 10 (b) of this article, to the court where the defendant's case is transferred.

The bill provides that the new funding formula would be established by January 1, 2008 and implemented for the state fiscal year beginning in September 1, 2008. CJAD has estimated that the fiscal impact on the funding allocation to the community supervision and corrections departments (CSCDs) could be approximately \$10.0 million in fiscal year 2008 and \$11.4 million in fiscal year 2009. This calculation includes the amount of funding necessary to protect CSCDs from potential financial losses as a result of the bill, \$4.2 million in each fiscal year. The impact to account for the projected loss of offender fees is estimated to be \$5.8 million in fiscal year 2008 and \$7.2 million in

fiscal year 2009. However, the bill provides that the board may adopt a policy limiting loss or gain as a result of the operation of the new formula. It is unknown how much loss or gain the board would allow as a result of the new formula, therefore, at this time, the impact of the proposal to the CSCDs is unknown.

### **Local Government Impact**

The bill would establish a new funding formula for basic supervision probation and this analysis indicates the amount of state funding necessary to protect Community Supervision and Corrections Departments from potential financial losses as a result of the bill. A potential result of the changes in funding formula provisions may be a decrease in community supervision populations, depending on the number of defendants with supervision terminated early. Local governments would experience a decrease in revenue through lowered court costs and lowered probation fees to community supervision and corrections departments. The impact to individual localities would vary considerably due to court costs, probation fees, and supervision costs which vary by locality.

Under existing statute, in addition to funding received from the state for each felony offender on direct community supervision, the court may impose a supervision fee on the offender to help offset the costs of their supervision. Collection of the supervision fee and other fees imposed on offenders may be spread over the length of their community supervision; a shorter period of supervision could reduce the collection rate.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, GG, SDO