

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 19, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB746 by Whitmire (Relating to the civil commitment of sexually violent predators; amending provisions subject to criminal penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB746, As Passed 2nd House: a negative impact of (\$17,802,939) through the biennium ending August 31, 2017.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$7,753,001)
2017	(\$10,049,938)
2018	(\$10,046,704)
2019	(\$10,043,770)
2020	(\$10,040,536)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Savings from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$7,986,971)	\$163,292	\$70,678	3.0
2017	(\$10,287,440)	\$163,292	\$74,210	3.0
2018	(\$10,287,740)	\$163,292	\$77,744	3.0
2019	(\$10,288,340)	\$163,292	\$81,278	3.0
2020	(\$10,288,640)	\$163,292	\$84,812	3.0

Fiscal Analysis

The bill would change the name of the Office of Violent Sex Offender Management (OVSOM) to the Texas Civil Commitment Office (TCCO); add two additional board members; amend the civil commitment process; and create a tiered treatment program with the ability of individual

movement between program tiers based on performance and treatment progress for eventual release from the program. It would require the Health and Human Services Commission (HHSC) to provide psychiatric services, disability services, and housing for committed individuals with mental illness, intellectual or development disabilities, or physical disabilities that prevent the person from effectively participating in the civil commitment program.

The bill would also provide judicial causes of action for committed persons to seek less restrictive tiers or to challenge transfers to higher tiers, and create new classes of litigation for the Law Enforcement Defense Division (LEDD) at the Office of the Attorney General (OAG). The bill would change the jurisdiction over civil commitment cases from Montgomery District Court to the district attorney, criminal district attorney, or county attorney serving the court of conviction for the person's most recent sexually violent offense.

Methodology

It is assumed that services provided by TCCO will be a cost to General Revenue Funds of \$7,201,686 in fiscal year 2016, and \$9,415,608 in fiscal year 2017. In fiscal year 2016, the cost to provide these services is estimated to be \$6,936,847 in professional fees for housing and treatment, \$6,271 for board member travel and \$45,800 for a computer lab and software for committed clients to access state and federal courts and legal counsel. In fiscal year 2017 through fiscal year 2020, the cost to provide these services is estimated to be \$9,204,428 in professional fees for housing and treatment, \$5,978 for board member travel and \$21,500 for computer software costs. It is assumed that 2 full time equivalents (FTEs) will be needed by TCCO to establish due process for sexually violent predators as required by the legislation. The costs associated with the FTEs would be \$212,768 in fiscal year 2016 and \$183,702 in fiscal year 2017. Those costs include salaries, benefits, and other operating expenses. It is assumed that TCCO will recover treatment and housing costs from civil commitment clients that are not indigent. The collection of these fees is assumed to be slightly over \$70,000 per year and grow at 5% per year after fiscal year 2016. This analysis assumes that through the civil commitment program 283 sexually violent predators (SVPs) will be served in fiscal year 2016 and 333 in fiscal year 2017 through 2020. This analysis also assumes that TCCO can procure housing for the program. Both the House and Senate versions of the General Appropriations Bill include funding at OVSOM for certain provisions of the bill.

It is assumed that the Department of State Health Services (DSHS) and the Department of Aging and Disability Services (DADS) will provide the additional psychiatric and disability services included in the bill and that TCCO will provide housing for the SVPs. It is assumed that DADS can implement the bill within existing resources since the agency currently provides services to civilly committed persons. Federal law prohibits reimbursement for Medicaid services for individuals residing in a state hospital or other institution for mental disease, including those that are civilly committed; therefore services provided by DSHS will be a total cost to General Revenue Funds of \$785,285 in fiscal year 2016 and \$871,832 in fiscal year 2017. The cost to provide these mental health services is estimated to be \$648,000 in fiscal year 2016, and \$756,000 in fiscal year 2017 through fiscal year 2020. DSHS indicates that 1 FTE will be needed to coordinate and manage the additional services at a cost of \$137,285 in fiscal year 2016 and \$115,832 in fiscal year 2017. Those costs include salaries, benefits, and other operating expenses.

On the request of the local prosecutor, the Special Prosecution Unit (SPU) would provide the local prosecutor with legal, financial and technical assistance. In this analysis it is assumed the SPU would provide such assistance within the SPU's available resources.

Because the bill would remove special jurisdiction over civil commitments from the 435th Judicial

District, court personnel serving that court would have fewer duties related to civil commitments relating mostly to biennial reviews of civil commitments for those persons committed in that court for prior years. It is estimated that Montgomery County would have a reduced need for state appropriations to handling biennial reviews of an estimated 175 persons previously committed in the court dating from the court's creation and special jurisdiction. In this analysis the savings in state appropriation for staff at the 435th District Court in Montgomery County is anticipated to be \$163,292 each fiscal year from General Revenue.

While the Office of the Attorney General has indicated the need for additional FTEs and administrative costs, it is assumed that the provisions of the bill can be implemented within existing agency resources. Based on the analysis provided by the Office of Court Administration, it is assumed the provisions of the bill can be implemented within existing resources. This analysis also assumes the provisions of the bill would not result in a significant impact on the Department of Criminal Justice.

Technology

Technology costs at TCCO total \$45,800 in fiscal year 2016, and \$21,500 for fiscal year 2017 through fiscal year 2020 to purchase computers and software for two new FTEs and 20 computers and software to establish a computer lab for clients in the civil commitment program to access the courts and legal information in a secure setting.

Technology costs at DSHS related to FTEs total \$5,232 in fiscal year 2016 and \$725 for fiscal year 2017 through fiscal year 2020 for computer software, hardware and data center services.

Local Government Impact

The bill would provide for civil commitment proceedings to take place in the county in which the person was convicted for a sexually violent offense rather than in Montgomery County. There may be increased costs to local courts resulting from increased caseloads and court appointed attorneys for indigent defendants. However, due to the fact that there are so few of these cases, the Office of Court Administration anticipates no significant fiscal impact to local courts.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 537 State Health Services, Department of, 696 Department of Criminal Justice, 116 Sunset Advisory Commission, 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 644 Juvenile Justice Department, 697 Board of Pardons and Paroles

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