

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1630** by Whitmire (Relating to the commitment of juveniles in post-adjudication secure correctional facilities operated by the Texas Juvenile Justice Department and by local probation departments.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1630, As Passed 2nd House: a positive impact of \$6,972,077 through the biennium ending August 31, 2017.

Additional costs potentially associated with increased demand on juvenile probation programming as a result of implementing the provisions relating to the age of criminal responsibility are not included in this analysis and could be significant.

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	\$983,900
2017	\$5,988,177
2018	\$4,792,398
2019	(\$24,376,363)
2020	(\$29,950,652)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable Savings from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2015
2016	\$0	\$983,900	9.0
2017	\$0	\$5,988,177	2.0
2018	\$0	\$4,792,398	2.0
2019	(\$24,376,363)	\$0	26.0
2020	(\$29,950,652)	\$0	37.0

Fiscal Analysis

The bill would amend various codes as they relate to the commitment of youth to the Texas Juvenile Justice Department (TJJD). Under the provisions of the bill, commitment of youth to TJJD would be limited to determinate sentenced youth unless the court determines that the youth has behavioral health or other special needs that cannot be addressed within the youth's home community. The bill would require TJJD to finalize a regionalization plan for keeping adjudicated youth within their home regions and to identify available post-adjudication facility capacity by August 31, 2016. TJJD would be required to establish a new division to administer the regionalization plan and monitor program quality and accountability. The bill would require the TJJD regionalization plan to include sufficient mechanisms to divert 30 juveniles from TJJD commitment beginning September 1, 2015, and 150 juveniles from TJJD commitment beginning September 1, 2016, and that funds appropriated for this purpose may not be offset by projected savings generated by the decreases in the secure facilities populations for these first two fiscal years. The bill would require the Office of the Independent Ombudsman (OIO) associated with TJJD to assess the rights of youth at post-adjudication facilities and any other facilities that accept youth adjudicated for conduct indicating a need for supervision or delinquent conduct. Under the provisions of the bill, individuals who are 17 at the time of an offense would be considered juveniles and would be under the jurisdiction of juvenile courts and the juvenile justice system instead of the adult criminal justice system.

The bill would take effect September 1, 2015 with the exception of the provisions of the bill changing the age of criminal responsibility from 17 to 18 which would take effect September 1, 2017 and would apply only to offenses committed on or after that date.

Methodology

Sentencing trends in both the juvenile and adult justice systems were analyzed to determine the proportion of adult correctional institution, community supervision, and parole supervision admissions who would be served by the juvenile justice system instead of the adult system in the future. In fiscal year 2014, there were 459 new admissions to adult correctional institutions for individuals who were 17 at offense and would be eligible for commitment in juvenile state residential facilities. Under the provisions of the bill, all of these individuals could be eligible for commitment to juvenile state residential facilities. This analysis assumes a portion, 70 percent, of these individuals would receive services in juvenile state residential facilities and the remaining 30 percent would be supervised by juvenile probation departments. This analysis also assumes a portion, 76 percent, of those currently admitted to juvenile state residential facilities would be released to juvenile parole supervision.

In fiscal year 2014, 7,587 individuals who were 17 at offense and would be eligible to be supervised by juvenile probation departments were placed on adult community supervision.

Under the provisions of the bill, all of these persons could be eligible to be placed on juvenile probation supervision. This analysis assumes a portion, 71 percent, of these individuals would be supervised by juvenile probation departments and 29 percent would receive no supervision.

Savings for changing the age of criminal responsibility are estimated based on the state costs per day for adults in Texas Department of Criminal Justice correctional institutions (\$54.89), and under adult community supervision (\$1.63). This analysis assumes adult parole supervision savings would not be realized within the first five years following enactment of the bill. Costs for changing the age of criminal responsibility are estimated based on the state costs per day for juveniles in TJJD state residential facilities (\$437.11), juvenile parole supervision (\$31.93), juvenile probation supervision (\$5.40), and juvenile detention (\$9.77). This analysis assumes a delay after the bill becomes effective, before individuals would enter the juvenile justice system and that not all of those entering the juvenile justice system would complete their length of stay within the first year the bill is effective. Additional costs potentially associated with increased demand on probation programming as a result of implementing the provisions of the bill changing the age of criminal responsibility are not included in this analysis and could be significant. Savings and costs for diverting 30 juveniles from TJJD state residential facilities to juvenile probation departments in fiscal year 2016 and 150 juveniles each year beginning in fiscal year 2017 are based on costs per day listed above for TJJD state residential facilities, juvenile parole supervision, and juvenile probation supervision.

The change to the age of criminal responsibility would result in a net cost of \$18,736,477 in fiscal year 2018 (juvenile system costs offset by adult correctional system savings), a net cost of \$50,979,605 in fiscal year 2019, and a net cost of \$56,860,932 in fiscal year 2020. The regionalization plan to divert youth would produce a net savings of \$1,922,619 in fiscal year 2016, a net savings of \$6,843,939 in fiscal year 2017, a net savings of \$24,364,638 in fiscal year 2018, a net savings of \$27,439,004 in fiscal year 2019, and a net savings of \$27,746,043 in fiscal year 2020. Included in the regionalization plan amounts are costs of \$435,490 in fiscal year 2016 and \$9,139,405 for every subsequent fiscal year for grants to local probation departments for the diversion of youth to local facilities.

TJJD estimates the expanded duties of the OIO would result in ten full-time equivalent positions (FTEs) and associated costs for salaries, vehicles, travel, technology, and other operating expenses. Salaries for the ten FTEs would be \$535,000 in fiscal year 2016 and \$556,000 for every fiscal year thereafter. Employee benefits calculated at 32.38% of salary cost would be \$173,233 in fiscal year 2016 and \$180,033 for every fiscal year thereafter.

The estimated total impact of the bill would be a net savings in the first three fiscal years: \$983,900 in fiscal year 2016, \$5,988,177 in fiscal year 2017, and \$4,792,398 in fiscal year 2018. A net cost of \$24,376,363 would occur in fiscal year 2019, and a net cost of \$29,950,652 would occur in fiscal year 2020. The total impact to FTEs includes the effects of diversion of youth, change in age of jurisdiction, and the ten additional FTEs each fiscal year for the OIO. The impact to juvenile residential facility FTEs is calculated at a ratio of 1 FTE per 12 youth for fiscal years 2016 and 2017, and 1FTE for every 8 youth for subsequent years as the result of anticipated reduced ratios associated with the Prison Rape Elimination Act which becomes effective in fiscal year 2018. The net effect of FTEs is an increase of 9 in fiscal year 2016, an increase of 2 in fiscal year 2017, a decrease of 2 in fiscal year 2018, an increase of 26 in fiscal year 2019, and an increase of 37 in 2020.

The Office of Court Administration indicates the fiscal impact to juvenile courts would not be significant.

Technology

The technology costs associated with the ten FTEs for the OIO is estimated to be \$31,429, for computers, electronic accessories, mobile phones, and phone plans.

Local Government Impact

The bill would require county Juvenile Probation Departments to implement the regionalization plan; costs would include additional staff, facilities, placement, and transportation.

Jefferson County Juvenile Probation Department reported a total cost of \$884,000 for fiscal year (FY) 2016 and 2017. Tom Green County Juvenile Probation Department reported a cost of \$675,640 for FY 2016 and \$365,640 in FY 2017. Coke County Juvenile Probation Department reported a total cost of \$63,800 per year. Nueces County Juvenile Probation Department reported an average cost of \$595,996 per year. There may also be revenue gained from detention contracts, but it is not anticipated to be significant.

El Paso County reported that the regionalization plan may have a significant fiscal impact but an estimate could not be provided this time.

Harris County reported that implementing the regionalization plan would not have a significant fiscal impact to the county.

The bill would also increase the age of criminal responsibility. Due to the vast characteristics of the juvenile population and the unknown composition of the future population of offenders, local government entities indicated costs associated with this bill are difficult to estimate. The cost to each individual county juvenile department would vary depending on a number of factors including, the size of the county and the areas served; the number of offenders served; the severity of offenses committed and prosecuted; and the range of services provided. County adult probation departments indicated the fiscal impact of the bill would be insignificant. While these local departments may experience a decrease in the population they serve resulting in a loss of certain funding, this decrease in population may also allow staff and other resources to be made available.

Bexar County Juvenile Probation Department reported an estimated yearly cost of between \$8.2 million to \$8.5 million as a result of the provisions of the bill relating to the age of criminal responsibility. The costs include additional staff, residential placement services and program services.

Tarrant County Juvenile Services reported an estimated cost of \$2.1 million in FY 2018; and costs ranging from \$2.9 million to \$3.1 million in FY 2019-2020 as a result of the provisions of the bill relating to the age of criminal responsibility. The costs include office space, program services, and detention. This estimate does not include additional staff, training, and preparation of facilities in fiscal year 2017.

Nueces County Juvenile Probation Department reported an estimated yearly cost of between \$644,478 to \$678,657 as a result of the provisions of the bill relating to the age of criminal responsibility. The costs include additional staff, medical assessments and program costs.

El Paso County Juvenile Probation Department reported significant costs associated with the provisions of the bill relating to the age of criminal responsibility.

Harris County reported an estimated cost of \$94.4 million in FY 2018; and costs of \$ 19.4 million in FY 2018-2019 as a result of the provisions of the bill relating to the age of criminal responsibility. The costs include a new juvenile detention center, staff, clothing, food, medical and mental health costs.

Source Agencies: 644 Juvenile Justice Department, 696 Department of Criminal Justice,
212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, ESi, LM, RCa, JPo, KJo, AI, SD, KVe