



## LEGISLATIVE BUDGET BOARD

# Fiscal Notes and Impact Statements

**PRESENTED AT THE CRIMINAL JUSTICE FORUM**

**LEGISLATIVE BUDGET BOARD STAFF**

**NOVEMBER 2016**

# Criminal Justice Forum Parameters

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- Diverse group of participants
- Learning opportunity for all
- Limited to the subject area
- Criminal Justice Forums are an opportunity for various groups to come together to learn about and discuss current issues in criminal and juvenile justice.

# Feedback Form (Final Page of the Handout)

**What did you like most about the forum?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**What are your suggestions for improving the forum?**

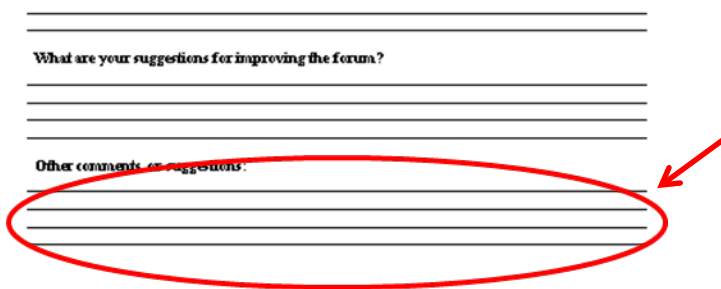
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**Other comments or suggestions:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**To help us better meet your needs, please check the category that best describes you:**

Legislative staff  
 State agency staff  
 Local government staff  
 College/University Faculty  
 College/University Student  
 Advocacy group members  
 Media/bloggers  
 General Public  
 Other, please specify: \_\_\_\_\_



# Agenda

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- Introduction
- Fiscal Notes, Impact Statements, and the Criminal Justice Data Analysis Team
- Question and Answer

# What is a fiscal note?

A fiscal note is a written estimate of the fiscal implications that may result from the implementation of a bill or joint resolution.

Types of Fiscal Implications:

- costs, savings, revenue gains, or revenue losses (can be a combination)

A fiscal note is a tool to help legislators better understand how a bill might impact the state budget as a whole, individual state agencies, and in some instances, local governments.

Types of Fiscal Notes:

- Fiscal Implication (Costs/Savings/Gains/Losses)
- No Significant Fiscal Implication (NSFI)
- No Fiscal Implication (NFI)

A fiscal note estimate is generated for a five year period but may be extended depending on the terms of the legislation.

# Example: Fiscal Notes

## Fiscal Implication

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 24, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

**IN RE: HB10** by Thompson, Senfronia (Relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses; to the prevention, prosecution, and punishment of those offenses, and to compensation paid to victims of those offenses.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB10, As Passed 2nd House: a negative impact of (\$1,478,576) 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	(\$742,788)
2017	(\$735,788)
2018	(\$735,788)
2019	(\$735,788)
2020	(\$735,788)

### All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund <sup>1</sup>	Change in Number of State Employees from FY 2015
2016	(\$742,788)	11.0
2017	(\$735,788)	11.0
2018	(\$735,788)	11.0
2019	(\$735,788)	11.0
2020	(\$735,788)	11.0

### Fiscal Analysis

The bill would revise multiple codes relating to certain criminal and civil consequences of

## No Significant Fiscal Implication

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 24, 2015

TO: Honorable René Oliveira, Chair, House Committee on Business & Industry

FROM: Ursula Parks, Director, Legislative Budget Board

**IN RE: SB859** by Eltife (Relating to partnerships and limited liability companies.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Business Organizations Code to require the Secretary of State to clarify certain provisions relating to company or partnership agreements. Additionally, the bill would change the domestic Limited Liability Partnership registration process.

The Secretary of State indicates the provisions of the bill could be implemented within existing resources.

The provision that would change the registration requirements for domestic limited liability partnerships would take effect January 1, 2016. Otherwise, the bill would take effect September 1, 2015

### Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 307 Secretary of State  
**LBB Staff:** UP, CL, EP, CM

# LBB Staff and Fiscal Notes

- All budget, performance, and cross-functional staff are significantly involved in the fiscal note process, along with a number of support staff.
- The Fiscal Note process is managed by Scott Dudley, Manager, Estimates & Revenue Analysis Team.
- During session, there are 10 fiscal note coordinators who work as the liaisons to and among legislative committees, agencies, and LBB staff on fiscal note production. Some fiscal note coordinator positions are session-only.
- There are currently 33 House standing committees and 13 Senate standing committees; so each coordinator works with multiple committees. The number of committees fluctuates from session to session.
- Fiscal notes are drafted by LBB analysts (all analytical teams), and are assigned on the basis of subject-matter expertise.

# What is an Impact Statement?

An impact statement provides specific analysis relevant to a particular subject area; the statement's content goes beyond what would be contained in a fiscal note.

## Types of Impact Statements:

- Actuarial Impact Statement
- Criminal Justice Policy Impact Statement
- Equalized Education Funding Impact Statement
- Higher Education Impact Statement
- Open Government Impact Statement
- Tax/Fee Equity Notes
- Water Development Policy Impact Statement

**Rules:** Under Senate rules, the director of the LBB determines whether an impact statement is required (fiscal note coordinators make the requests on behalf of the director). Under House rules, the committee chair makes the determination.



# Example: Impact Statements

LEGISLATIVE BUDGET BOARD  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

84TH LEGISLATIVE REGULAR SESSION

May 15, 2015

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB183 by Huffman (Relating to the offenses of the violation of civil rights of and improper sexual activity with individuals in custody; imposing a criminal penalty.), As Engrossed

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to include certain juvenile facilities to which the offense of violation of the civil rights of persons in custody would apply.

Violation of the civil rights of persons in custody is currently punishable as a state jail felony or a second degree felony, depending on the circumstances of the offense. A second degree felony is punishable by confinement in prison for two to 20 years and a state jail felony is punishable by confinement in a state jail for 180 days to two years. In addition to confinement all felony level offenses are subject to an optional fine not to exceed \$10,000.

In fiscal year 2014, 22 people were arrested, fewer than 10 were placed under felony supervision, and fewer than 10 were admitted to state correctional institutions for the offense of violation of the civil rights of persons in custody. The bill's provisions would expand the types of correctional facilities subject to this offense to certain juvenile facilities. However, this analysis assumes this expansion would not significantly impact state correctional populations, programs, or workloads.

Source Agencies:  
LBB Staff: UP, LM, ESi

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Austin, Texas

**TAX/FEE EQUITY NOTE**

84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** HB1905 by Springer (Relating to certain state and local taxes, including ad valorem taxes, and to the repeal of certain of those taxes. ), Conference Committee Report

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source Agencies:  
LBB Staff: UP, KK

# Types of Impact Statements

**Actuarial Impact Statement:** Provides estimates of proposed legislative changes in public pension funds.

**Criminal Justice Policy Impact Statement:** Provides estimates of proposed legislative changes in prison capacity.

**Equalized Education Funding Impact Statement:** Provides an analysis of the equity implications associated with a proposed legislative change in state aid to school districts under the Foundation School Program.

**Higher Education Impact Statement:** Provides an estimate of the implications resulting from creating or changing the classification, mission, or governance of an institution of higher education.

**Open Government Impact Statement:** Estimates the impact of proposed policy changes on public access to government information or to the transaction of public business.

**Tax/Fee Equity Notes:** Provides an analysis of how a proposed increase/decrease in taxes/fees affects taxpayers in the state. It calculates both the initial impact and the final impact.

**Water Development Policy Impact Statement:** Provides estimates of changes resulting from the creation of water districts under provisions of Article XVI, Section 59 of the Texas Constitution. The Water Development Board and the Texas Commission on Environmental Quality are an important source of information in preparing these documents.

# Important Dates for the Legislative Process

- Pre-filing Begins**

November 14, 2016

House Rule 8, Sec 7  
Senate Rule 7.04 (a)

November							January						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5	1	2	3	4	5	6	7
6	7	8	9	10	11	12	8	9	<b>10</b>	11	12	13	14
13	<b>14</b>	15	16	17	18	19	15	16	17	18	19	20	21
20	21	22	23	24	25	26	22	23	24	25	26	27	28
27	28	29	30				29	30	31				

- Session Begins**

January 10, 2017

Government Code, Sec. 301.001

- Bill Filing Deadline**

March 10, 2017

House Rule 8, Sec 8  
Senate Rules 7.07 (b) and 10.01

March							May						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4		1	2	3	4	5	6
5	6	7	8	9	<b>10</b>	11	7	8	9	10	11	12	13
12	13	14	15	16	17	18	14	15	16	17	18	19	20
19	20	21	22	23	24	25	21	22	23	24	25	26	27
26	27	28	29	30	31		28	<b>29</b>	30				

- Last Day of Session**

May 29, 2017

Texas Constitution, Art III, Sec 24 (b)

# When is a fiscal note prepared?

**Government Code, Chapter 314: Fiscal Notes and Cost Projections:** System of Fiscal Notes. The Legislative Budget Board shall establish a system of fiscal notes identifying the probable costs of each bill or resolution that authorizes or requires expenditures or diversion of state funds for a purpose other than one provided for in the general appropriation bill.

**Rules:** Under House rules, if a fiscal note is required it must be distributed before the bill or joint resolution can be laid out before a committee. Under Senate rules, a fiscal note is required before a final vote in committee.

A fiscal note is prepared when a bill is:

- set for committee hearing
- is amended/substituted in committee
- is amended on the floor
- is engrossed
- in conference committee

# What are the steps in the process?

1. Bill referred to committee by the Speaker of the House or Lieutenant Governor
2. Committee clerk requests a fiscal note
3. Fiscal note coordinator reviews and assigns the bill to appropriate analysts and agencies
4. Bill is set for hearing
5. Agencies or other requested entities provide LBB staff with their cost estimate of the bill
6. Assigned LBB staff generate, review, and approve a fiscal note
7. The fiscal note coordinator sends the fiscal note and impact statement (if applicable) to the committee electronically

Note: Steps 5 through 7 are repeated for the various versions of the bill.

# Who is involved in the fiscal note process?

## Fiscal Note Coordinator

- Makes fiscal note assignments to LBB staff and to state agencies, notifies analysts when bills are set for hearing, serves as liaison to legislative committees, reviews and edit fiscal notes, obtains approvals as necessary, and submits completed fiscal notes to committees

## Primary Analyst

- Generating the fiscal note
- Initiating coordination with secondary analysts

## Secondary Analyst

- Following-up with and providing input to the primary analyst

## Manager

- Reviews and approves content

## Director

- Approves final product

# Types of Fiscal Notes

## **No Fiscal Implication (NFI)**

Implementing the provisions of the bill would not require any additional resources from the state, nor would there be any state revenue impact.

## **No Significant Fiscal Implication (NSFI)**

The change in resources necessary to implement a program is insignificant relative to the budget of an affected agency and could be reasonably absorbed within an agency's current appropriation level.

## **Fiscal Implication (Costs/Savings/Gains/Losses)**

Implementing the provisions of the bill would require additional resources, and/or could impact state revenue.

# Identifying Fiscal Issues

## Examples of examined issues include:

- Fiscal Issues: Costs, Savings, Revenue Gains, Revenue Losses
- Full-time Equivalent (FTE) positions: Number and types
- Costs/Revenue change over time: Factors in the legislation or assumptions about program growth
- One-time start-up costs
- People/Entities subject to the program
- Time lag before full effects
- More/Fewer agencies working on the program: Raising more revenue/saving money



# Key Features of Fiscal Note Analysis

- All analysis is relative to **current law**.
  - How would the bill change current law?
  - What is the agency being asked to do?
  - How would revenue change compared to current law?
- The fiscal note does not address year-to-year changes that would happen irrespective of the legislation.
- Analysis is generally limited to only those parts of the bill that would create a fiscal impact. (For example, Estimates do not include costs due to inflation.)
- Estimates should only include direct impacts; secondary impacts are excluded from fiscal note estimates, but in some cases may be referenced in the text.
- Legislation that is permissive is treated as directive; e.g., “may” is treated as “shall.” We consider “may” to be an authorization to expend funds, and our approach is reasonable to ensure the fiscal note provides a full examination of probable cost.

# Key Features of Fiscal Note Analysis

- LBB estimates may agree or differ with information provided by state agencies.
- If an agency resubmits information that differs substantially from its original submission, the LBB will evaluate that information and use whichever submission is determined to be most accurate and reliable.
- The LBB is not required to use agency estimates of costs, impacts, caseloads, etc. LBB staff are informed by the agency responses, but not obligated to them.
- Assumptions, agency sources, and other sources are noted in the methodology section of the fiscal note.

# Fiscal Notes, Impact Statements, and the CJDA Team

*Which fiscal notes are members of the CJDA team responsible for generating?*

- Criminal and juvenile justice related bills, for example:
  - bills proposing changes to felony punishments (modifications to existing felonies, creation of new felonies, or increasing a misdemeanor to a felony)
  - bills proposing modifications to release eligibility or consideration

*Who is responsible for generating Criminal Justice Impact Statements?*

- CJDA team members are responsible for generating criminal justice impact statements.

# Fiscal Notes, Impact Statements, and the CJDA Team

*To which committees are the criminal and juvenile justice related fiscal notes delivered?*

- Fiscal notes with criminal and juvenile justice related content can be found in almost all committees. The majority of the fiscal notes generated by the CJDA team are requested by the following committees:

<b>Committees Requesting Fiscal Notes</b>	
HOUSE	SENATE
Corrections Criminal Jurisprudence Juvenile Justice and Family Issues	Criminal Justice

# Fiscal Notes, Impact Statements, and the CJDA Team

*Where are the offenses the various bills are proposing be revised located?*

- Felony level offenses can be found throughout various codes and are concentrated within the Penal Code and Health and Safety Code.

*Are there any other sections of statute for which revisions are routinely proposed?*

- In addition to changes to felony level offenses, the CJDA team routinely issues fiscal notes on bills that propose revisions to the Government Code, Code of Criminal Procedure, and Family Code.

# Fiscal Notes, Impact Statements, and the CJDA Team

## General Steps for Generating Fiscal Notes and Criminal Justice Impact Statements

1. Read the bill.
2. Identify the provisions associated with fiscal issues.
3. Read the associated sections of statute the bill is proposing be modified.
4. Read all other sections of statute referenced.
5. Identify those individuals currently in the system who meet the criteria outlined in the bill's provisions.
6. Apply the bill's provisions to the most recent cohort of individuals meeting the criteria. Review any relevant state agency responses.
7. Generate cost and population estimates for the Fiscal Note/Criminal Justice Impact Statement period.

These steps are repeated each time a request for a fiscal note is received.

# Changes to Felony Punishments

Changes to Felony Punishments can be grouped into the following categories:

- **Penalty Creation/Penalty Elimination** — *example of a penalty creation: a bill proposes engaging in a behavior would carry a criminal penalty in the future*
- **Penalty Increased/Penalty Reduced** — *example of a penalty reduction: a bill proposes a penalty previously classified as a third degree felony would be classified as a state jail felony in the future*
- **Time Extensions/Time Credits** — *example of a time credit: a bill proposes successful completion of a treatment program will allow an individual to earn days to be credited toward sentence or supervision length*
- **Modifications to Release Consideration and Eligibility Criteria** — *example of a modification to eligibility criteria: a bill proposes adding to the list of offenses for which an individual must serve 25 years before the case is eligible for release consideration*
- **Penalty Enhancements** — *example: a bill proposes enhancing the punishment for assault from a third degree felony to a second degree felony if the offender has been previously convicted two or more times of certain offenses against family members*

# Changes to Felony Punishments: Penalty Eliminated

HB 253, 84th Legislature, 2015

What change is the bill proposing?

- Modifying the Offense of Possession of Less than One Gram of a Penalty Group 1 Controlled Substance to include a useable quantity of more than 0.02 grams but less than one gram

What populations will be affected by the proposed change?

- State Jail Felons with Possession of Less than One Gram of a Penalty Group 1 Controlled Substance whose possession amounts were greater than 0 grams but less than 0.02 grams

What is the state cost or savings associated with the proposed change?

- Narrowing the range of amounts possessed for which a criminal penalty is applied is expected to result in decreased demands upon the correctional resources of counties or of the state due to shorter terms of probation or shorter terms of confinement in state correctional institutions. Whether the bill would result in a significant amount of savings to the state as a result of a correctional population reduction is indeterminate due to a lack of statewide data that would enable the identification of those cases in which the amount of Penalty Group 1 substance possessed was 0.02 grams or less from all other possession of a Penalty Group 1 controlled substance cases.



# Changes to Felony Punishments: Penalty Reduced

HB 254, 84th Legislature, 2015

What change is the bill proposing?

- Reducing the punishment for the possession of certain amounts of controlled substances from a felony to a misdemeanor

What populations will be affected by the proposed change?

- Felony drug offenders with low-level possession amounts (less than one gram or fewer than 20 units)

What is the state cost or savings associated with the proposed change?

- State jail incarceration savings (\$47.30 X decrease in state jail felon population) plus felony probation savings (\$1.63 X decrease in felony probation population) plus misdemeanor probation costs (\$0.70 X increase in misdemeanor probation population)
- Prison incarceration savings (\$54.89 X decrease in prison population) plus parole population (\$4.04 X decrease in parole population)
- (Incarceration Savings + Supervision Savings) – Misdemeanor Supervision Placement Costs
- \$105,179,181 for the 2016-2017 biennium

Note: The revenue loss associated with reduced collections of criminal fines and court costs as a result of implementing the provisions of the bill is indeterminate.

# Resources

**Fiscal Notes** – A resource page Fiscal Note related resources.  
[http://www.lbb.state.tx.us/Fiscal\\_Notes.aspx](http://www.lbb.state.tx.us/Fiscal_Notes.aspx)

**For Committees** – A guide to Fiscal Notes for Committee Staff.  
Guide to Fiscal Notes (Committee Staff)  
[http://www.lbb.state.tx.us/Fiscal\\_Notes/Guide%20to%20Fiscal%20Notes%20Committee%20Staff.pdf](http://www.lbb.state.tx.us/Fiscal_Notes/Guide%20to%20Fiscal%20Notes%20Committee%20Staff.pdf)

**For Agencies** – A guide to Fiscal Notes for State Agency Staff.  
Guide to Fiscal Notes (Agencies)  
[http://www.lbb.state.tx.us/Fiscal\\_Notes/Guide%20to%20Fiscal%20Notes%20Agencies.pdf](http://www.lbb.state.tx.us/Fiscal_Notes/Guide%20to%20Fiscal%20Notes%20Agencies.pdf)

**Texas Legislative Council** – A link to the Texas Legislature Online and the ability to search for bills, committee meetings, and much more.  
Texas Legislature Online  
<http://www.legis.texas.gov/>

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# Questions?



# LEGISLATIVE BUDGET BOARD

## **Contact the LBB**

Legislative Budget Board

[www.lbb.state.tx.us](http://www.lbb.state.tx.us)

512.463.1200