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Fiscal Note

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Prime Sponsors: Sen. Gonzales; Gardner Bill Status: Senate Judiciary
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Bill Topic: SUNSET PROCESS SEX OFFENDER MANAGEMENT BOARD

- Summary of Fiscal Impact:
[X] State Revenue [] TABOR Refund
[X] State Expenditure [] Local Government
[] State Transfer [] Statutory Public Entity

Sunset Bill. This bill continues the Sex Offender Management Board in the Department of Public Safety, which is scheduled to repeal on September 1, 2023. State fiscal impacts include both increased expenditures from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2030.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$548,009 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1. State Fiscal Impacts Under SB 23-164^1

Table with 4 columns: Impact Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include New Impacts (Revenue, Expenditures, Other Budget Impacts) and Continuing Impacts (Revenue, Expenditures, Other Budget Impacts).

^1 Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal. Due to space limitation, centrally appropriated expenditures are excluded from Table 1, and instead listed in Table 2 in the State Expenditures section below.

Summary of Legislation

The bill continues the Sex Offender Management Board (SOMB) in the Department of Public Safety (DPS) for 7 years, from September 1, 2023 to September 1, 2030. In addition, the bill also makes the following changes to the SOMB:

- requires the SOMB to perform a compliance review of at least 10 percent of treatment providers every two years;
- requires the Division of Criminal Justice in the DPS to work with a third party vendor to take and forward fingerprints for service provider applications;
- requires supervising officers to follow the guidelines and standards development by the SOMB; and
- requires agencies supervising sex offenders to provide offenders with the complete list of treatment providers.

Background

The SOMB is a 25-member board within the DPS that develops standards and guidelines to oversee adult and juvenile sex offenders and approves the treatment providers, evaluations, clinical supervisors and polygraph examiners. The full sunset report can be found [here](#).

The SOMB is funded through the General Fund, the Sex Offender Surcharge Fund, and the Sex Offender Treatment Provider Fund. The Sex Offender Surcharge Fund contains money from surcharges paid by individuals who are convicted of a sex offense. Surcharge amounts are established in statute and therefore, revenue to the fund is not impacted by the sunset of the SOMB.

The Sex Offender Treatment Provider Fund contains money from application fees paid by approved providers. Providers must renew their application every three years. Statute caps the application fee at \$125, which is the current application fee.

Continuing Program Impacts

According to the DPS, the SOMB is expected to have revenue of \$19,862 in provider application fees and expenditures of \$645,856. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2024-25. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2023, followed by a wind-down period, and state revenue and expenditures will decrease starting in FY 2024-25 by the amounts shown in Table 1. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Expenditures

Beyond the continuation of the program, changes in the bill will increase state General Fund expenditures in by \$584,169 in FY 2023-24 and \$626,070 in FY 2024-25 in the DPS, Judicial Department, and the Department of Human Services (DHS). Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under SB 23-164**

	FY 2023-24	FY 2024-25
Department of Public Safety		
Personal Services	\$121,015	\$161,352
Operating Expenses	\$2,160	\$2,700
Capital Outlay Costs	\$13,340	-
Centrally Appropriated Costs ¹	\$28,960	\$37,146
FTE – Personal Services	1.6 FTE	2.0 FTE
DPS. Subtotal	\$165,475	\$201,198
Judicial Department		
Personal Services	\$29,824	\$39,765
Operating Expenses	-	\$475
Capital Outlay Costs	\$6,670	\$400
Centrally Appropriated Costs ¹	\$7,200	\$9,232
FTE – Personal Services	0.4 FTE	0.5 FTE
Judicial Subtotal	\$43,694	\$49,872
Department of Human Services		
Contractor	\$375,000	\$375,000
DHS Subtotal	\$375,000	\$375,000
Total Costs	\$584,169	\$626,070
Total FTE	2.0 FTE	2.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Safety. Starting in FY 2023-24, the DPS will require 2.0 FTE to review 10 percent of approved providers every two years. This includes 1.0 FTE to collect required compliance review information and to analyze results, and 1.0 FTE to work with providers after the review to ensure providers implement required corrective actions and to provide technical assistance. Costs in FY 2023-24 are prorated for the General Fund payday shift and a September 1 start date.

Judicial Department. Starting in FY 2023-24, the Division of Probation within the Judicial Department will require 0.5 FTE to assist probation officers when offenders enroll with providers outside of the referring district, manage any additional contracts, train probation staff on the responsibility to provide the full list, and to collaborate with the SOMB to develop or modify current supervising standards. Costs in FY 2023-24, are prorated for a September 1 start date and the General Fund payday shift.

Department of Human Services. Starting in FY 2023-24, expenditures in the DHS will increase by \$375,000. Currently, a DHS contractor oversees 93 approved providers for youth within the Division of Youth Services and delivers vendor management for the various service providers including screening and vetting providers, referral services, and billing. The fiscal note assumes that the number of providers currently overseen by the contractor will double due to the requirement that youth receive a full list of providers, increasing the cost of the contract by \$375,000.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a total appropriation of \$548,009 from the General Fund of which:

- \$136,515 to the Department of Public Safety with 1.6 FTE;
- \$36,494 to the Judicial Department with 0.4 FTE; and
- \$375,000 to the Department of Human Services.

State and Local Government Contacts

Corrections
Information Technology

District Attorneys
Judicial

Human Services
Public Safety