

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

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

**February 20, 2007**

**TO:** Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB8** by Riddle (Relating to the prosecution, punishment, and supervision of certain sex offenders and to certain crimes involving sex offenders.), **As Introduced**

**No significant fiscal implication to the State is anticipated for the first five years following passage of the bill.**

The bill would amend the Code of Criminal Procedure by: 1) changing the statute of limitations so that a felony indictment may be presented within 20 years from the 18<sup>th</sup> birthday of the victim of a sexually violent offense, if the investigation of the offense shows that the victim is younger than 17 years of age at the time of the offense; 2) making changes in procedures in non-death penalty capital cases; and 3) providing for penalty and procedure changes if the victim of a sexually violent offense was younger than 14 at the time of the offense.

The bill would amend the Government Code by eliminating the possibility of mandatory supervision release for all persons convicted of the offense of indecency with a child and for persons convicted of a first degree felony for the offense of sexual performance by a child.

The bill would amend the Health and Safety Code by requiring a tracking service to track the locations of outpatient civil commitment patients. The tracking service would periodically provide cumulative reports of locations of the civil commitment patients to case managers.

The bill would amend the Penal Code by: 1) adding a definition for the offense of “sexually violent offense”; 2) enhance the punishment for certain repeat sexual offenses to that of a capital felony if the offenses are committed against a child younger than 14 years at the time of the offense; 3) enhance the punishment of the offense of indecency with a child punishable from a second degree to a first degree if the victim of the offense is younger than 14 years of age at the time of the offense; 4) enhance the punishment of the offense of sexual performance by a child from a second degree to a first degree if the victim of the offense is younger than 14 years of age at the time of the offense; and enhance the punishment for behavior related to the offense of sexual performance by a child, currently punishable as felony of the third degree, to a felony of the first degree if the victim of the offense is younger than 14 years of age at the time of the offense.

The Act would take effect September 1, 2007 and would only apply to offenses committed on or after that date.

Given the proposal would apply to offenses committed on or after September 1, 2007, and that under current law and policy, individuals convicted of sexually violent offenses serve a very high percentage of their sentence, the full impact of this proposal will not be realized in the first five years of implementation. Many of the provisions of the bill are not anticipated to have a significant fiscal impact because they either impact a small percentage of persons convicted of sexually violent offenses, or because under current policy and under the proposal the individuals are expected to be incarcerated for a period of time close to their maximum term (85%). The Department of State Health Services has stated that they anticipate no fiscal impact from the provision of the bill further specifying tracking services for civil commitment outpatients. The provision of the bill that is expected to have the largest and most immediate impact is the provision that would enhance the punishment of the offenses of indecency with a child, and sexual performance by a child, from a felony of the second degree to a felony of the first degree if the victim of the offense is younger than 14 years of age.

For fiscal year 2006, the Texas Department of Criminal Justice (TDCJ) received 633 offenders for the offenses of indecency with a child, and sexual performance of a child, where the offense was punishable as a felony of

the second degree. Based on a sample of fiscal year 2006 TDCJ intakes for sexually violent offenses committed against children, it is estimated that 537 (84%) of the 633 second degree offenders committed their offense against children under the age of 14 ( $633 \times 84\% = 537$ ). The 537 offenders are then placed in a discrete event simulation model that calculates the difference in sentencing and release policy based on whether the offenders are treated as second degree felons or first degree felons. The simulation model indicates that the impact of this particular provision of the bill would not be significant in the first five years following passage; however, the additional time served requirements of the bill would likely result in the need for an additional 489 beds by fiscal year 2027.

### **Local Government Impact**

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

**Source Agencies:** 537 State Health Services, Department of, 696 Department of Criminal Justice

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