

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 25, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: HB126 by Delisi (Relating to the offense of engaging in organized criminal activity.),
Conference Committee Report

The probable impact of implementing the bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in the offense of tampering with a governmental record.

The bill would amend the Penal Code by adding tampering with a governmental record as one of the offenses for which a person can commit the offense of engaging in organized criminal activity. The offense of tampering with a governmental record currently is punishable as a Class A misdemeanor, a state jail felony, a felony of the third degree, or a felony of the second degree, depending on the type of record involved in the offense and the intent to defraud or harm another.

The engaging in organized criminal activity provision of the Penal Code allows for the enhancement of the penalty for included offenses. By including the offense of tampering with a governmental record in the engaging in organized criminal activity provision, the bill would allow for the possibility of increasing the punishment to the next level. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. In fiscal year 2006, 105 admissions to the institutional division, 107 admissions to state jail, and 1,167 additions to felony community supervision, were convicted of the offense of tampering with governmental records. Assuming the same number of offenders in future years, the additional impact to criminal justice populations from the bill would vary greatly depending on the assumption regarding the number of times the enhancement provision would be applied. A check of TDCJ records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding the use of the enhancement assumption; therefore, the probable impact of implementing the bill cannot be determined.

The bill would also amend the Penal Code to include obtaining, possessing, transferring, or using without legal authorization identifying information concerning a deceased person for the conditions regarding the offense of fraudulent use or possession of a person's identifying information. The provision would not apply to a business or other commercial entity or a government agency that is engaged in a business activity or governmental function that does not violate a penal law of this state. The offense of fraudulent use or possession of identifying information is punishable as a state jail felony. The bill would define intent to harm or defraud another as the possession of: 1) identifying information of three or more other persons without consent, 2) identifying information of three or more deceased persons without legal authorization, or 3) identifying information of three or more persons without consent or deceased persons without legal authorization. It is assumed that this provision of the bill would not significantly affect the operations of state or local government.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, SD, TM, GG