

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

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

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

**IN RE: HB825** by Anchia (Relating to the prosecution of and punishment for certain sex offenses and to the supervision of certain sex offenders.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB825, As Introduced: a negative impact of (\$1,075,246) through the biennium ending August 31, 2009.

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
2008	(\$537,623)
2009	(\$537,623)
2010	(\$699,595)
2011	(\$1,221,686)
2012	(\$2,037,787)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2008	(\$537,623)
2009	(\$537,623)
2010	(\$699,595)
2011	(\$1,221,686)
2012	(\$2,037,787)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure, Penal Code, Government Code, and Health and Safety Code as they relate to the prosecution, punishment and supervision for offenders convicted of certain sex offenses.

Under the provisions of the bill offenders not currently subject to the 90-day reporting requirement would be required to register every 180 days. The bill would provide risk level-three sex offenders who are required to register be released to the Super-Intensive Supervision program and submit to electronic monitoring as a condition of release. The bill would also require those offenders eligible to petition the court for exemption from registration under Article 62.031 report to local law enforcement once a year. Offenders convicted of the offense of aggravated kidnapping would not be able to argue at the punishment stage of trial the victim was released voluntarily in a safe place if the victim was

younger than 14 years of age at the time the offense was committed. The bill would enhance the punishment for the offense of indecency with a child and sexual performance of a child if the victim is younger than 14 years of age at the time the offense is committed.

The bill would take effect September 1, 2007.

## **Methodology**

The Texas Department of Criminal Justice (TDCJ) reports 762 risk level-three sex offenders would be affected under the provision of the bill. Of the 762 risk level-three sex offenders 398 are monitored by passive GPS and 30 are monitored by active GPS. TDCJ reports the cost to monitor an offender by active GPS is \$9.95 per day and by passive GPS \$4.41 per day. For this analysis, it is assumed the intent of the bill is to supervise the 334 remaining offenders by passive GPS rather than active GPS. TDCJ estimates the yearly cost to monitor the 334 remaining offenders by passive GPS would be \$537,623 (334 offenders \* \$4.41 \* 365 days). If the intent of the bill is to supervise offenders via active GPS the yearly cost would be \$1,213,004 (334 offenders \* \$9.95 \* 365 days) to supervise those not currently under GPS monitoring. The cost to move those offenders currently under passive GPS to active GPS is \$804,796 (398 offenders \* (\$9.95 - \$4.41) \* 365 days) per year. The total yearly cost for moving these offenders to active GPS is \$2,017,800.

The bill would also enhance the punishment for the offense of indecency with a child and sexual performance of a child if the victim is younger than 14 years of age at the time the offense is committed. For fiscal year 2006, the Texas Department of Criminal Justice 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 532 (84%) of the 633 second degree offenders committed their offense against children under the age of 14 ( $633 * 84\% = 532$ ). For fiscal year 2006, the Texas Department of Criminal Justice received 222 offenders for the offenses of indecency with a child where the offense was punishable as a felony of the third degree. Based on a sample of fiscal year 2006 TDCJ intakes for sexually violent offenses committed against children, it is estimated that 186 (84%) of the 222 third degree offenders committed their offense against children under the age of 14 ( $222 * 84\% = 186$ ).

A simulation model that calculates the difference in sentencing and release policy based on whether the offenders are treated as third degree, second degree, or first degree felons is used to determine the impact of this provision of the bill. Due to the enhancement provision impacting offenders who commit their offense after September 1, 2007 and the high percentage of sentence served under current law for offenders targeted by the bill (87% for third degree felons convicted of indecency with a child and 85% for second degree felons released in FY2006), the impact of this particular provision of the bill would result in a gradual need for 113 prison beds by the end of fiscal year 2012; and the eventual need for an additional 895 beds by fiscal year 2027. Costs of incarceration by TDCJ are estimated on the basis of \$40 per inmate per day, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for facility construction.

## **Local Government Impact**

The City of Houston Police Department reported that eight new police officers would be needed to implement the provisions of the bill at an initial cost of \$923,840 in fiscal year 2008. These costs include recruiting expenses; police academy training; salaries and benefits; and computers, furniture, and telephone expenses. Costs would decrease to \$689,280 in fiscal year 2009 and would include only salaries, benefits, and telephone costs. An additional five officers would be needed by 2012, increasing costs in that year to approximately \$1.3 million.

Harris County reported costs of \$134,880 in fiscal year 2008 to implement the provisions of the bill; this number would rise to \$318,298 in fiscal year 2009. (The lower cost in fiscal year 2008 is because Harris County is on a different fiscal year cycle than the state.) These costs, which would include the salaries, capital outlay, and operational expenses for four new deputies, would increase to \$355,572 by fiscal year 2012.

The Collin County Sheriff's Office reported that an additional deputy, at an initial cost of \$59,175, would be needed to implement the provisions of the bill in fiscal year 2008. These expenses would rise to \$71,925 by fiscal year 2012.

**Source Agencies:** 405 Department of Public Safety, 696 Department of Criminal Justice

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