

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 24, 2007

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: HB946 by Miller (Relating to conduct that constitutes the offense of endangering a child.),
As Passed 2nd House

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in the possession, use, or manufacture of methamphetamine, or other penalty group 1 controlled substances, in the presence of a child, or the proximity or accessibility of methamphetamine to a child.

The bill would amend the Penal Code to include possession or introduction of methamphetamine into the body in the presence of a child and conduct related to the proximity or accessibility of methamphetamine to a child with analysis indicating presence of methamphetamine in the child's body to conduct placing a child in imminent danger of death, bodily injury, or physical or mental impairment.

The bill would amend the Health and Safety Code by providing that if it were shown at the punishment phase of a trial for the manufacture of a controlled substance listed in penalty group 1 that when the offense was committed a child younger than 18 years of age was present on the premises where the offense was committed: 1) the punishment for less than one gram would increase from a state jail felony offense to a third degree felony offense and the punishment for one gram or more but less than four grams would increase from a second degree felony offense to a first degree felony offense; 2) the minimum term of imprisonment for two hundred grams or more but less than four hundred grams would increase from ten years to fifteen and the maximum fine would increase to \$150,000; and 3) the minimum term of imprisonment for four hundred grams or more would increase from fifteen years to twenty years and the maximum fine would increase to \$300,000.

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

Broadening the definition of the types of behavior punishable is expected to result in increased demands upon the correctional resources of counties or of the State due to an increase in offenses. In fiscal year 2006 there were 191 offenders admitted to state jail for abandoning or endangering a child by criminal negligence, and in fiscal year 2005 there were 419 offenders placed on state jail felony community supervision for abandoning or endangering a child by criminal negligence. It is expected that individuals who would be affected under the bill are currently being sentenced for other, possibly misdemeanor, offenses.

A check of Texas Department of Criminal Justice 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 possession or use, or the manufacturing of methamphetamine, or other penalty group 1 controlled substances, in the presence of a child or the proximity or accessibility of methamphetamine to a child; therefore, the probable impact of implementing the bill cannot be determined.

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, GG, TM