

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: SB807 by Whitmire (Relating to the punishment for and prevention of the offense of burglary of vehicles.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB807, As Introduced: a negative impact of (\$3,007,334) 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	(\$466,221)
2009	(\$2,541,113)
2010	(\$3,125,666)
2011	(\$3,254,314)
2012	(\$3,401,304)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2008	(\$466,221)
2009	(\$2,541,113)
2010	(\$3,125,666)
2011	(\$3,254,314)
2012	(\$3,401,304)

Fiscal Analysis

The bill would amend the Penal Code by making the offense of burglary of a vehicle punishable as a Class A misdemeanor with a minimum term of confinement of six months if it is shown that the defendant has previously been convicted of the offense of burglary of a vehicle. The bill would also amend the Penal Code by making the offense of burglary of a vehicle punishable as a state jail felony if the defendant has been previously convicted two or more times of burglary of a vehicle.

The bill would amend the Code of Criminal Procedure by setting the minimum period of community supervision at one year for the offense of burglary of a vehicle when punishable as a Class A misdemeanor, in both judge ordered and jury recommended cases. The current maximum period of community supervision in a misdemeanor case is two years.

The bill would also expand the functions and duties of the Automobile Theft Prevention Authority to include

automobile burglary prevention and investigation. The new name of the authority would be the “Automobile Burglary Theft Prevention Authority” and the bill would require plans and operations by the authority to include automotive burglary prevention activities.

The bill would become effective September 1, 2007 and the change in law made by this Act applies only to an offense committed on or after September 1, 2007.

Methodology

For fiscal year 2006, it is estimated that there were 1,617 individuals placed on misdemeanor community supervision for the offense of burglary of a vehicle. It is assumed that 327 of these offenders have previously been convicted two or more times of the offense of burglary of a vehicle. Based on direct court sentencing trends, it is assumed that 169 of the 327 individuals would be sentenced directly to a term of incarceration in a state jail facility. It is also assumed that the remaining 158 individuals would be placed under felony probation supervision. Offenders placed on felony probation would have a revocation rate of 26 percent after 3 years of supervision.

In order to estimate the future impact of the proposal, the changes proposed for admission and release policy are applied in a simulation model, to (1) state jail admissions that reflect the distribution of offenses, sentence lengths, and time served, and (2) the increase in the number of people on community supervision. Included in the estimated costs are projected community supervision operating costs.

Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$36.53 per state jail inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for state jail construction. Options available to address the increased demand for state jail capacity that would result from implementation of this bill include construction of new facilities and contracting with counties or private entities. Costs of community supervision are estimated on the basis of \$2.55 per day.

The provision of the bill setting the minimum period of misdemeanor community supervision at one year for burglary of vehicle offenders is not expected to have a significant impact, since 89% of fiscal year 2006 burglary of vehicle placements had a sentence length of one year or greater.

It is assumed that any costs or duties associated with implementing the provision of the bill that would include automotive burglary prevention activities for the Automobile Theft Prevention Authority could be absorbed within the existing resources of the Texas Department of Transportation.

Local Government Impact

Increasing the penalty for the offense of burglary of a motor vehicle from a Class A misdemeanor to a state jail felony for repeat offenders represents a shift in responsibility from local government to the State in dealing with incarceration expenses. The shift would represent a significant increase in demands upon the correctional resources of the State; however, the positive impact to local government would be spread proportionately (based on the frequency of convictions).

Source Agencies: 601 Department of Transportation, 696 Department of Criminal Justice, 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety

LBB Staff: JOB, KJG, ES, GG, VDS