

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

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

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

IN RE: SB877 by Seliger (Relating to a limitation on judge-ordered community supervision for a defendant convicted of first-degree felony injury to a child.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB877, As Engrossed: a negative impact of (\$566,627) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2008 | (\$141,657) |
| 2009 | (\$424,970) |
| 2010 | (\$708,283) |
| 2011 | (\$991,596) |
| 2012 | (\$1,274,909) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1 |
|-------------|--|
| 2008 | (\$141,657) |
| 2009 | (\$424,970) |
| 2010 | (\$708,283) |
| 2011 | (\$991,596) |
| 2012 | (\$1,274,909) |

Fiscal Analysis

The bill would amend the Code of Criminal Procedure by eliminating the possibility of judge ordered community supervision for a defendant convicted of the offense of injury to a child, elderly individual, or disabled individual, if the offense is punishable as a felony of the first degree and the victim of the offense is a child. The bill would also require such defendants to not be eligible for release on parole until the defendant's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event would the defendant be eligible for release on parole in less than two calendar years.

Methodology

In fiscal year 2006, 107 admissions to prison were convicted of the offense of injury to a child, elderly individual, or disabled individual, punishable as a first degree felony. For the 107 admissions it is not clear if the victim of the offense was a child, but the average sentence for all persons admitted for the

offense was 23 years. Also in fiscal year 2006, 48 offenders were released from prison for the offense of injury to a child, elderly individual, or disabled individual, punishable as a first degree felony. It is not clear how many of the 48 offenders released committed their offense against a child; however, all such offenders served an average of 10 years in prison and served nearly 80% of their sentence before release. Therefore, it is unlikely that this provision of the bill would have a significant impact on persons sentenced to prison for the offense identified in the proposal.

In fiscal year 2006 there were 70 intakes to community supervision convicted of the offense of injury to a child, elderly individual, or disabled individual, punishable as a first degree felony. Records indicate that 20 of the offenders committed their offense against a child and were ordered to community supervision by a judge. Assuming that all of these individuals would be shifted from community supervision to prison the bill would result in the need for an additional 90 prison beds by the end of fiscal year 2012. Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$40 per inmate per day for prison facilities, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for prison construction. Savings from the decreased community supervision population, as a result of the bill, are also included in this analysis.

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