

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 26, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB385 by Ortiz, Jr. (Relating to the prosecution and consequences of certain offenses involving graffiti; providing penalties.), **As Introduced**

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 probable use of the engaging in organized criminal activity provision for the offenses of arson, criminal mischief, reckless damage or destruction, interference with railroad property, or graffiti.

The bill would amend the Code of Criminal Procedure to include as contraband any property used by a defendant charged or convicted of a felony graffiti offense to advertise, promote, or publish the commission of that offense. The bill would amend the Penal Code to remove restrictions on paint type as it relates to graffiti offenses. The bill would amend the Penal Code to include arson, criminal mischief, reckless damage or destruction, interference with railroad property, and graffiti as punishable as engaging in organized criminal activity. The engaging in organized criminal activity provision increases the punishment of certain offenses to the next higher category. The bill would also amend the Penal Code to repeal the definition of aerosol paint as it relates to graffiti offenses.

The bill would take effect on September 1, 2009 and would apply to an offense committed on or after the effective date.

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. 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 the probable use of the engaging in organized criminal activity provision for the offenses of arson, criminal mischief, reckless damage or destruction, interference with railroad property, or graffiti; 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: 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, TMP, TP