

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 13, 2009

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

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

IN RE: HB2066 by Gallego (Relating to enhancing penalties for assaulting a family member by strangulation or suffocation.), **Committee Report 2nd House, Substituted**

The probable impact of implementing the provision would depend on the number of times assault against a family member, household member, or someone in a dating relationship with the defendant occurred by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person.

The bill would amend the Penal Code to increase the punishment of assault if committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth from a Class A misdemeanor to a felony of the third degree. The offense would be punishable as a felony of the second degree if: the offense is committed against a family member, household member, or someone in a dating relationship with the defendant; it is shown at the trial the defendant has been previously convicted of certain violent offenses; and the offense is committed by impeding the normal breathing or circulation of the blood of the person. The bill provides that if conduct constituting the offense of assault also constitutes an offense under another law, the actor may be prosecuted under either law or under both laws.

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 assaults in which the offense is committed by impeding the normal breathing or circulation of the blood of the person by applying pressure to a person's throat or neck or by blocking the person's nose or mouth; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

The probable fiscal impact on local government would depend on the number of times assault against a family member, household member, or someone in a dating relationship with the defendant occurred by strangulation or suffocation.

Source Agencies: 696 Department of Criminal Justice

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