

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2086 by Moody (Relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2086, Conference Committee Report: a negative impact of (\$26,000,000) through the biennium ending August 31, 2011.

There are provisions of the bill that are anticipated to have no significant fiscal impact to the State or that are assumed could be reasonably absorbed with existing resources. The fiscal impact of other provisions of the bill cannot be determined due to the unavailability of reliable data or information.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$13,000,000)
2011	(\$13,000,000)
2012	(\$13,000,000)
2013	(\$13,000,000)
2014	(\$13,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$13,000,000)
2011	(\$13,000,000)
2012	(\$13,000,000)
2013	(\$13,000,000)
2014	(\$13,000,000)

Fiscal Analysis

The bill would amend the Civil Practice and Remedies Code, Code of Criminal Procedure, Family Code, Government Code, Health and Safety Code, Local Government Code, Penal Code, Transportation Code, Education Code, and Human Resources Code relating to criminal street gangs and certain other offenses.

The bill would increase the punishment of criminal solicitation of a minor to the same category as the

solicited offense, depending on the circumstances, if certain elements of a criminal street gang are present. The offense is currently punishable as one category lower than the solicited offense. The bill would create gang-free zones and increase punishment for certain offenses of engaging in organized criminal activity to the next higher category of offense if they occur in gang-free zones. The bill would allow for the use of maps as evidence of location or area for the purpose of showing the location and boundaries of gang-free zones. The bill would create the offense of directing activities of certain criminal street gangs punishable as a felony of the first degree. The bill would permit sentences for more than one offense arising out of the same criminal episode to run concurrently or consecutively if there is an affirmative finding regarding gang-related conduct unless the defendant's case was transferred to the court from the juvenile court. The bill would amend the Penal Code to include the offenses of escape, permitting or facilitating escape, introducing or providing implements for escape, and prohibited substances and items in adult or juvenile correctional or detention facility or on property of the Texas Department of Criminal Justice or Texas Youth Commission 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 fiscal impact of these provisions of the bill cannot be determined due to the unavailability of reliable data or information.

The bill would create new civil action against criminal street gangs for a violation of injunction. The bill would make property obtained through organized crime offenses subject to forfeiture. The bill would create a finding regarding gang-related conduct to be entered in the judgment of a case if the applicable conduct was engaged in as part of the activities of a criminal street gang. The bill would add to possible conditions of community supervision relating to criminal street gangs. The bill would require juveniles who have been found to have engaged in delinquent conduct that is also gang-related conduct to participate in a criminal street gang intervention program. The bill would amend the Health and Safety Code and Local Government Code as they relate to graffiti and aerosol paint. The bill would amend the Penal Code relating to the prosecution and punishment for certain criminal offenses involving the use of a false or fictitious identity or identifying document. The bill would add to the elements that must apply when determining criminal information collected in an intelligence database used to investigate and prosecute offenses committed by criminal street gangs. The bill would also change from three to five years the length of time records may be retained before information is removed. The bill would amend the Code of Criminal Procedure relating to an interception order for communication by specified person. The bill would amend the Education Code and Human Resources Code to require superintendents of public school districts, administrators of private schools, governing boards of higher education institutions, and day-care centers to provide information on gang-free zones and inform of the consequences of engaging in organized criminal activity within those zones. The bill would also require the Legislative Budget Board (LBB) to prepare an annual criminal justice impact policy statement for this Act. These provisions of the bill are not expected to have a significant fiscal impact or could be absorbed with existing resources.

The bill would permit the use of electronic monitoring of certain members of criminal street gangs who are placed on community supervision or released to parole or mandatory supervision. The Texas Department of Criminal Justice states the cost for active GPS monitoring services is \$9.95 per day. It is anticipated that the cost could be absorbed with existing resources.

The bill would create a "Public Corruption Unit" within the Department of Public Safety (DPS). DPS states that they are unable to determine an accurate measure of the quantity of requests for assistance for the Public Corruption Unit; therefore, they are unable to determine the subsequent fiscal impact for provisions establishing that unit.

The bill would require the Governor's Criminal Justice Division to administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities. The bill would allow the criminal justice division to use any revenue available for the purposes of the bill. Implementation of the bill would result in an estimated \$13 million a year in General Revenue to provide grants to combat gang violence.

Methodology

The \$13 million for anti-gang grants is based on the amount in the Governor's Office Homeland

Security plan under the Governor’s Office for anti-gang activities.

Local Government Impact

There are provisions of the bill that are anticipated to have no significant fiscal impact to units of local government or that are assumed could be reasonably absorbed with existing resources. The fiscal impact of other provisions of the bill cannot be determined due to the unavailability of reliable data or information.

The bill would amend the Local Government Code to allow a county by order or a municipality by ordinance to require a person who sells aerosol paint to impose a surcharge not to exceed \$1 on each sale of aerosol paint. Money collected under this section may be used by local government only for purposes related to graffiti abatement.

Source Agencies: 301 Office of the Governor, 405 Department of Public Safety, 696 Department of Criminal Justice

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