

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

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

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

IN RE: HB3520 by Riddle (Relating to the punishment prescribed for burglary of a vehicle and to grants of community supervision to persons who commit that offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3520, As Introduced: a negative impact of (\$2,651,236) through the biennium ending August 31, 2011.

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
2010	(\$1,133,581)
2011	(\$1,517,655)
2012	(\$1,796,842)
2013	(\$1,986,481)
2014	(\$2,127,361)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2010	(\$1,133,581)
2011	(\$1,517,655)
2012	(\$1,796,842)
2013	(\$1,986,481)
2014	(\$2,127,361)

Fiscal Analysis

The bill would amend the Penal Code and Code of Criminal Procedure as they relate to the punishment for burglary of a vehicle and community supervision for individuals who commit this offense. Under the provisions of the bill the Penal Code would be amended by making the offense of burglary of a vehicle punishable as a state jail felony. Under current statute, burglary of a vehicle is punishable as a state jail felony if the defendant has previously been convicted two or more times otherwise the offense is punishable as a Class A Misdemeanor. The bill would also amend the Code of Criminal Procedure and require the judge to suspend the imposition of a sentence and place on community supervision an offender who meets certain requirements. The bill would also amend the Code of Criminal Procedure by specifying the maximum allowable hours of community service ordered by a judge for defendants convicted of the offense of burglary of a vehicle. The bill would also repeal provisions of the Code of Criminal Procedure relating to the current minimum period of

community supervision for offenders identified in the bill.

The bill would become effective September 1, 2009 and the change in law made by this Act applies only to an offense committed on or after September 1, 2009. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to non substantive additions to and corrections in enacted codes.

Methodology

For this analysis it is estimated that the number of offenders convicted under the provisions of the bill would result in an increase in the felony community supervision population and an increase in the demand for state jail population.

In fiscal year 2008, there were 12 persons placed on felony community supervision and 30 persons admitted to state jails for the offense of burglary of a vehicle punishable as a state jail felony. Under current statute, burglary of a vehicle is punishable as a state jail felony if the defendant has previously been convicted two or more times. The population impact as a result of the provisions of the bill will come from defendants whose offense were previously punished as a Class A misdemeanor but would now be punished as a state jail felony. In fiscal year 2008, it is estimated there were 669 individuals placed on misdemeanor community supervision for the offense of burglary of a vehicle. Based on arrest history data, direct court sentencing trends, and revocation rates, approximately 4 percent of the individuals convicted would be sentenced to a term of incarceration in a state jail as either a direct court commitment or as a result of felony community supervision revocation and the remaining percent would be placed under felony probation supervision as a result of the bill. It is unknown how many of those offenders sentenced to a term of confinement would meet all of the requirements set forth in the Subsection added to Section 15, Article 42.12, Code of Criminal Procedure; the impact from this provision of the bill has not been included in this analysis because information that would help in estimating the impact of this provision of the bill is not available in statewide criminal history records. It is likely this provision would result in a decrease in the demand for state jail capacity and an increase in the demand for felony community supervision.

In order to estimate the future impact of the proposal, the changes proposed for the offense of burglary of a vehicle policy are applied in a simulation model, to (1) a state jail population that reflects the distribution of offenses, sentence lengths, and time served, and (2) a felony community supervision model reflecting the increase in the number of people supervised.

Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$40.12 per inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities. The costs of felony community supervision are estimated on the basis of \$2.76 per day.

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 represents a shift in responsibility from local government to the State in dealing with incarceration expenses. The shift would represent an 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: 696 Department of Criminal Justice

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