

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 14, 2009**

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

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

**IN RE: SB11** by Carona (Relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties. ), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB11, Committee Report 2nd House, Substituted: 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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
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:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
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 broaden the offense of coercing, soliciting, or inducing gang membership to include family members. The offense is punishable as a state jail felony or felony of the third degree depending on the circumstances. The bill would create gang-free zones and increase punishment for 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 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, certain unlawful transfer of certain weapons offenses, and firearm smuggling subject to forfeiture. Money received under the provision would be held in trust for the benefit of the community or neighborhood harmed by the related behavior. 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 Civil Practice and Remedies Code, Code of Criminal Procedure, Family Code, Government Code, Health and Safety Code, and Local Government Code as they relate to graffiti, fees and court costs, and aerosol paint. 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 allow for restrictions on the operation of motor vehicles for defendants convicted of certain organized crime offenses. 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. 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 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.

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

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