

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 10, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

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 1st House, Substituted**

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.

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, and Transportation 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 the offense of online harassment to further interests of criminal street gang punishable as a state jail felony. 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 include graffiti, certain unlawful transfer of certain weapons offenses, and firearm smuggling to offenses punishable as engaging in organized criminal activity. 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. 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 create the offense of burglary of a building to create graffiti punishable as a state jail felony. 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 create the offense of firearm smuggling punishable as a felony of the third degree or a felony of the second degree depending on the circumstances. 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 automatically suspend or prohibit issuance of a person's driver's license upon

conviction of an offense related to organized crime and make operating a motor vehicle on a highway during the period of that suspension or prohibition punishable as a Class A misdemeanor. DPS states there would be some cost associated with driver's licenses; however, it is assumed the cost could be reasonably absorbed with existing resources. The bill would amend the Code of Criminal Procedure relating to an interception order for communication by specified person. 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 Texas Fusion Center to annually submit a report regarding criminal street gangs and gang-related crime. The bill would create a "Law Enforcement Integrity 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 Law Enforcement Integrity Unit; therefore, they are unable to determine the subsequent fiscal impact for provisions establishing that unit.

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: 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, KJG, GG