

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

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

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

IN RE: SB937 by Carona (Relating to the prosecution of and punishment for certain criminal offenses involving a combination or a criminal street gang.), **As Introduced**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to criminal street gangs and criminal solicitation of a minor and intent, threats or bodily injury of a family member, online promotion, and causing or encouraging child participation in gang-related criminal activity.

The bill would amend the Penal Code as it relates to a criminal street gang. 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 the person was a member of a criminal street gang and committed the offense with the intent to further the criminal activities of the criminal street gang or avoid detection as a member of a criminal street gang. 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 threatening a member of a child's family and causing bodily injury to a member of a child's family with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang. The offenses are punishable as a state jail felony and felony of the third degree, respectively.

The bill would create the offense of online promotion of a criminal street gang punishable as a state jail felony. The bill would create the offense of causing or encouraging child to participate in gang-related criminal activity punishable as a felony of the third degree or Class A misdemeanor depending on the circumstances.

The bill would take effect on September 1, 2009 and would apply to an offense committed on or after the effective date.

Creating, broadening, and 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 criminal street gangs and criminal solicitation of a minor and intent, threats or bodily injury of a family member, online promotion, and causing or encouraging child participation in gang-related criminal activity; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

The probable impact to local government cannot be determined due to the unavailability of reliable data or information related to criminal street gangs and criminal solicitation of a minor and intent, threats or bodily injury of a family member, online promotion, and causing or encouraging child participation in gang-related criminal activity.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, TMP