

SENATE AMENDMENTS

2nd Printing

By: Walle, Martinez Fischer, Moody,
Ortiz, Jr., Leibowitz, et al.

H.B. No. 1633

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution and punishment of the offense of
3 graffiti and to certain conditions imposed on defendants convicted
4 of that offense or on juveniles adjudicated as having engaged in
5 conduct in violation of that offense.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article 42.037(s), Code of Criminal Procedure,
8 is amended to read as follows:

9 (s)(1) A court shall order [~~If a court orders~~] a defendant
10 convicted of an offense under Section 28.08, Penal Code, to make
11 restitution by:

12 (A) reimbursing the owner of the property for the
13 cost of restoring the property; or

14 (B) with the consent of the owner of the
15 property, [~~to the victim of the offense, the court may order the~~
16 ~~defendant to make restitution as provided by Subsection (b)(1)(B)~~
17 ~~or by~~] personally restoring the property by removing or painting
18 over any markings the defendant made.

19 (2) A court shall order a defendant convicted of an
20 offense under Section 28.08, Penal Code, to make restitution to a
21 political subdivision that owns public property or erects a street
22 sign or official traffic-control device on which the defendant
23 makes markings in violation of Section 28.08, Penal Code, by:

24 (A) paying an [~~The~~] amount [~~of the restitution~~

1 ~~ordered must be~~ equal to the lesser of [~~the amount of restitution~~
2 ~~authorized by Subsection (b)(1)(B) or~~] the cost to the political
3 subdivision of replacing or restoring the public property, street
4 sign, or official traffic-control device; or

5 (B) with the consent of the political
6 subdivision, restoring the public property, street sign, or
7 official traffic-control device by removing or painting over any
8 markings made by the defendant on the property, sign, or device.

9 (3) If the court orders a defendant to make
10 restitution under this subsection [~~subdivision~~] and the defendant
11 is financially unable to make the restitution, the court may order
12 the defendant to perform a specific number of hours of community
13 service [~~, including service restoring the property by removing or~~
14 ~~painting over any markings the defendant made,~~] to satisfy the
15 restitution.

16 (4) Notwithstanding Subsection (g)(4), a court shall
17 direct a defendant ordered to make restitution under this
18 subsection as a condition of community supervision to deliver the
19 amount or property due as restitution to the defendant's
20 supervising officer for transfer to the owner. A parole panel shall
21 direct a defendant ordered to make restitution under this
22 subsection as a condition of parole or mandatory supervision to
23 deliver the amount or property due as restitution to the
24 defendant's supervising officer. The defendant's supervising
25 officer shall notify the court when the defendant has delivered the
26 full amount of restitution ordered.

27 (5) For purposes of this subsection [~~subdivision~~],

1 "official traffic-control device" has the meaning assigned by
2 Section 541.304, Transportation Code.

3 SECTION 2. Section 11, Article 42.12, Code of Criminal
4 Procedure, is amended by adding Subsection (k) to read as follows:

5 (k) A court granting community supervision to a defendant
6 convicted of an offense under Section 28.08, Penal Code, shall
7 require as a condition of community supervision that the defendant
8 perform:

9 (1) at least 15 hours of community service if the
10 amount of pecuniary loss resulting from the commission of the
11 offense is \$50 or more but less than \$500; or

12 (2) at least 30 hours of community service if the
13 amount of pecuniary loss resulting from the commission of the
14 offense is \$500 or more.

15 SECTION 3. Section 54.046, Family Code, is amended by
16 amending Subsections (a) and (c) and adding Subsections (d) and (e)
17 to read as follows:

18 (a) If a juvenile court places on probation under Section
19 54.04(d) a child adjudicated as having engaged in conduct in
20 violation of Section 28.08, Penal Code, in addition to other
21 conditions of probation, the court:

22 (1) shall [~~may~~] order the child to:

23 (A) reimburse the owner of the property for the
24 cost of restoring the property; or

25 (B) with consent of the owner of the property,
26 restore the property by removing or painting over any markings made
27 by the child on the property; and

1 (2) if the child made markings on public property, a
2 street sign, or an official traffic-control device in violation of
3 Section 28.08, Penal Code, shall [~~may~~] order the child to:

4 (A) make to the political subdivision that owns
5 the public property or erected the street sign or official
6 traffic-control device restitution in an amount equal to the lesser
7 of the cost to the political subdivision of replacing or restoring
8 the public property, street sign, or official traffic-control
9 device; or

10 (B) with the consent of the political
11 subdivision, restore the public property, street sign, or official
12 traffic-control device by removing or painting over any markings
13 made by the child on the property, sign, or device.

14 (c) If a juvenile court orders a child to make restitution
15 under Subsection (a) and the child, child's parent, or other person
16 responsible for the child's support is financially unable to make
17 the restitution, the court may order the child to perform a specific
18 number of hours of community service, in addition to the hours
19 required under Subsection (d), to satisfy the restitution.

20 (d) If a juvenile court places on probation under Section
21 54.04(d) a child adjudicated as having engaged in conduct in
22 violation of Section 28.08, Penal Code, in addition to other
23 conditions of probation, the court shall order the child to
24 perform:

25 (1) at least 15 hours of community service if the
26 amount of pecuniary loss resulting from the conduct is \$50 or more
27 but less than \$500; or

1 (2) at least 30 hours of community service if the
2 amount of pecuniary loss resulting from the conduct is \$500 or more.

3 (e) The juvenile court shall direct a child ordered to make
4 restitution under this section to deliver the amount or property
5 due as restitution to a juvenile probation department for transfer
6 to the owner. The juvenile probation department shall notify the
7 juvenile court when the child has delivered the full amount of
8 restitution ordered.

9 SECTION 4. Sections 28.08(a) and (d), Penal Code, are
10 amended to read as follows:

11 (a) A person commits an offense if, without the effective
12 consent of the owner, the person intentionally or knowingly makes
13 markings, including inscriptions, slogans, drawings, or paintings,
14 on the tangible property of the owner with:

- 15 (1) ~~[aerosol]~~ paint;
- 16 (2) an indelible marker; or
- 17 (3) an etching or engraving device.

18 (d) An offense under this section is a state jail felony if:

19 (1) either:

20 (A) the marking is made on a school, an
21 institution of higher education, a place of worship or human
22 burial, a public monument, or a community center that provides
23 medical, social, or educational programs; or

24 (B) the person has been previously convicted two
25 or more times of an offense under this section committed when the
26 person was older than 17 years of age; and

27 (2) the amount of the pecuniary loss to real property

1 or to tangible personal property is any amount less than \$20,000.

2 SECTION 5. The change in law made by this Act applies only
3 to an offense that is committed or conduct that occurs on or after
4 the effective date of this Act. An offense that is committed or
5 conduct that occurs before the effective date of this Act is covered
6 by the law in effect when the offense was committed or the conduct
7 occurred, and the former law is continued in effect for that
8 purpose. For purposes of this section, an offense was committed or
9 conduct occurred before the effective date of this Act if any
10 element of the offense or conduct occurred before that date.

11 SECTION 6. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

By: Ellis

H.B. No. 1633

Substitute the following for H.B. No. 1633:

By: 

C.S. H.B. No. 1633

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.037(s), Code of Criminal Procedure, is amended to read as follows:

(s) (1) A court shall order [~~If a court orders~~] a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the property, [~~to the victim of the offense, the court may order the defendant to make restitution as provided by Subsection (b) (1) (B) or by~~] personally restoring the property by removing or painting over any markings the defendant made.

(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal

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Code, by:

(A) paying an [~~The~~] amount [~~of the restitution ordered must be~~] equal to the lesser of [~~the amount of restitution authorized by Subsection (b) (1) (B) or~~] the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restoring the public property, street sign, or official traffic-control device by removing or painting over any markings made by the defendant on the property, sign, or device.

(3) If the court orders a defendant to make restitution under this subsection [~~subdivision~~] and the defendant is financially unable to make the restitution, the court may order the defendant to perform a specific number of hours of community service [~~, including service restoring the property by removing or painting over any markings the defendant made,~~] to satisfy the restitution.

(4) Notwithstanding Subsection (g) (4), a court shall direct a defendant ordered to make restitution under this subsection as a condition of community supervision to deliver the amount or property due as restitution to the defendant's supervising officer for transfer to the owner. A parole panel shall direct a defendant ordered to make restitution under this subsection as a condition of parole or mandatory supervision to deliver the amount or property due as restitution to the defendant's supervising officer. The defendant's supervising officer shall notify the court when the defendant has delivered the full amount of restitution ordered.

(5) For purposes of this subsection [~~subdivision~~],

9.139.382 GCB

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"official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.

SECTION 2. Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) A court granting community supervision to a defendant convicted of an offense under Section 28.08, Penal Code, shall require as a condition of community supervision that the defendant perform:

(1) at least 15 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$50 or more but less than \$500; or

(2) at least 30 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$500 or more.

SECTION 3. Section 54.046, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court:

(1) shall [~~may~~] order the child to:

(A) reimburse the owner of the property for the cost of restoring the property; or

(B) with consent of the owner of the property, restore the property by removing or painting over any markings made by the child on the property; and

(2) if the child made markings on public property, a

9.139.382 GCB

street sign, or an official traffic-control device in violation of Section 28.08, Penal Code, shall [~~may~~] order the child to:

(A) make to the political subdivision that owns the public property or erected the street sign or official traffic-control device restitution in an amount equal to the lesser of the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restore the public property, street sign, or official traffic-control device by removing or painting over any markings made by the child on the property, sign, or device.

(c) If a juvenile court orders a child to make restitution under Subsection (a) and the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution, the court may order the child to perform a specific number of hours of community service, in addition to the hours required under Subsection (d), to satisfy the restitution.

(d) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court shall order the child to perform:

(1) at least 15 hours of community service if the amount of pecuniary loss resulting from the conduct is \$50 or more but less than \$500; or

(2) at least 30 hours of community service if the amount of pecuniary loss resulting from the conduct is \$500 or

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more.

(e) The juvenile court shall direct a child ordered to make restitution under this section to deliver the amount or property due as restitution to a juvenile probation department for transfer to the owner. The juvenile probation department shall notify the juvenile court when the child has delivered the full amount of restitution ordered.

SECTION 4. Section 28.08(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner with:

- (1) [~~aerosol~~] paint;
- (2) an indelible marker; or
- (3) an etching or engraving device.

SECTION 5. The change in law made by this Act applies only to an offense that is committed or conduct that occurs on or after the effective date of this Act. An offense that is committed or conduct that occurs before the effective date of this Act is covered by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed or conduct occurred before the effective date of this Act if any element of the offense or conduct occurred before that date.

SECTION 6. This Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, Family Code, and Penal Code relating to the prosecution and punishment of the offense of graffiti. The bill would require a court to order a defendant convicted or adjudicated for the offense of graffiti to either reimburse the property owner or restore the property with the owner's consent. The bill would require community service as a condition of community supervision for a defendant convicted of the offense of graffiti with the number of hours based on the amount of pecuniary loss (at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more). Under the provisions of the bill, a youth placed on probation for the offense of graffiti would be required to either reimburse the property owner or restore the property with the owner's consent. If the youth cannot pay the restitution, the juvenile court would be permitted to order the child, in addition to other community service ordered, to perform at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more.

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

The Juvenile Probation Commission does not anticipate significant fiscal impact to the state as a result of implementing the provisions of the bill.

Local Government Impact

The fiscal impact to local government from the requirements of the bill would vary depending on the number of offenders, the number of trials, and the amount of property recovered by a local entity. However, those costs are not anticipated to be significant.

Source Agencies: 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, SZ, ESi, GG, TMP, AI, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **Committee Report 2nd House, Substituted**

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|--|
| <p>No significant fiscal implication to the State is anticipated.</p> |
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The bill would amend the Code of Criminal Procedure, Family Code, and Penal Code relating to the prosecution and punishment of the offense of graffiti. The bill would require a court to order a defendant convicted or adjudicated for the offense of graffiti to either reimburse the property owner or restore the property with the owner's consent. The bill would require community service as a condition of community supervision for a defendant convicted of the offense of graffiti with the number of hours based on the amount of pecuniary loss (at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more). Under the provisions of the bill, a youth placed on probation for the offense of graffiti would be required to either reimburse the property owner or restore the property with the owner's consent. If the youth cannot pay the restitution, the juvenile court would be permitted to order the child, in addition to other community service ordered, to perform at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more.

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

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Local Government Impact

The fiscal impact to local government from the requirements of the bill would vary depending on the number of offenders, the number of trials, and the amount of property recovered by a local entity. However, those costs are not anticipated to be significant.

Source Agencies: 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, TMP, AI, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would require a court to order a defendant convicted or adjudicated for the offense of graffiti to pay restitution. The bill would require community service as a condition of community supervision for a defendant convicted of the offense of graffiti with the number of hours based on the amount of pecuniary loss (at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more). Under the provisions of the bill, a youth placed on probation for the offense of graffiti would be required to either reimburse the property owner or restore the property with the owner's consent. If the youth cannot pay the restitution, the juvenile court would be permitted to order the child, in addition to other community service ordered, to perform at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more. Under the provisions of the bill an individual previously convicted two or more times of graffiti committed when the person was older than 17 years of age that also caused a pecuniary loss of any amount less than \$20,000 would be punished as a state jail felon.

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

Enhancing punishment for criminal behavior 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. Any impact on the adult correctional population will likely be as a result of the provisions which allow for the penalty to be enhanced from that of a misdemeanor to a felony. For this analysis it is estimated the number of adult offenders convicted under the provisions of the bill would result in a slight increase in the felony community supervision, and state jail populations. The Juvenile Probation Commission does not anticipate significant fiscal impact to the state as a result of implementing the provisions of the bill.

Local Government Impact

The fiscal impact to local government from the requirements of the bill would vary depending on the number of offenders, the number of trials, and the amount of property recovered by a local entity. However, those costs are not anticipated to be significant.

Source Agencies: 665 Juvenile Probation Commission, 696 Department of Criminal Justice

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require a court to order a defendant convicted or adjudicated for the offense of graffiti to pay restitution. The bill would require community service as a condition of community supervision for a defendant convicted of the offense of graffiti with the number of hours based on the amount of pecuniary loss (at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more). Under the provisions of the bill, a youth placed on probation for the offense of graffiti would be required to either reimburse the property owner or restore the property with the owner's consent. If the youth cannot pay the restitution, the juvenile court would be permitted to order the child, in addition to other community service ordered, to perform at least 15 hours if the pecuniary loss is between \$50 and \$500 and at least 30 hours if the pecuniary loss is \$500 or more. Under the provisions of the bill an individual previously convicted two or more times of graffiti that also caused a pecuniary loss of any amount less than \$20,000 would be punished as a state jail felon.

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

Enhancing punishment for criminal behavior 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. Any impact on the adult correctional population will likely be as a result of the provisions which allow for the penalty to be enhanced from that of a misdemeanor to a felony. For this analysis it is estimated the number of adult offenders convicted under the provisions of the bill would result in a slight increase in the felony community supervision, and state jail populations. The Juvenile Probation Commission does not anticipate significant fiscal impact to the state as a result of implementing the provisions of the bill.

Local Government Impact

The fiscal impact to local government from the requirements of the bill would vary depending on the number of offenders, the number of trials, and the amount of property recovered by a local entity. However, those costs are not anticipated to be significant.

Source Agencies: 665 Juvenile Probation Commission, 696 Department of Criminal Justice

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 12, 2009

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

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

IN RE: HB1633 by Walle (Relating to certain conditions imposed on defendants convicted of an offense of graffiti or juveniles adjudicated as having engaged in conduct involving graffiti.),
As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend Article 42.12, Section 11 of the Code of Criminal Procedure by requiring persons convicted or juveniles adjudicated of an offense of graffiti, who are placed on community supervision or probation, to perform at least five hours of community service if the pecuniary loss is less than \$50; at least 15 hours if the pecuniary loss is between \$50 and \$500; and at least 30 hours if the pecuniary loss is \$500 or more. If a juvenile placed on probation for graffiti cannot pay restitution that as been ordered, the juvenile court shall order the child, in addition to other community service ordered, to perform at least five hours of community service if the pecuniary loss is less than \$50; at least 15 hours if the pecuniary loss is between \$50 and \$500; and at least 30 hours if the pecuniary loss is \$500 or more.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 665 Juvenile Probation Commission

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, TMP

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Toft

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **As Engrossed**

The bill would amend the Penal Code, Code of Criminal Procedure, and Family Code as they relate to the criminal penalties and civil consequences of damaging property with graffiti. The provisions of the bill that are the subject of this analysis are those providing for penalty enhancement. Under the provisions of the bill an individual previously convicted two or more times of graffiti, when the person was older than 17 years of age, that also caused a pecuniary loss of any amount less than \$20,000 would be punished as a state jail felon. Under current statute, graffiti is punishable at all levels and is based on the amount of pecuniary loss.

In fiscal year 2008, approximately 174 persons were placed on community supervision (42 felony and 132 misdemeanor), approximately 29 persons were admitted to state jail, and one person was admitted to prison for the offense of graffiti. Based on arrest history data, direct court sentencing trends, and revocation rates, approximately 14 percent of the individuals would be sentenced to a term of incarceration in a state jail and approximately 21 percent of the individuals would be placed under felony community supervision annually as a result of the provision providing penalty enhancement for previous graffiti convictions.

Assuming sentencing patterns and release policies not addressed in this bill remain constant, the probable impact of implementing the provisions of the bill during each of the first five years following passage, in terms of daily demand upon the adult corrections agencies, is estimated as follows:

| Fiscal Year | Increase in Demand for Felony Community Supervision | Increase in Demand for State Jail Capacity |
|--------------------|--|---|
| 2010 | 26 | 18 |
| 2011 | 26 | 16 |
| 2012 | 24 | 14 |
| 2013 | 22 | 12 |
| 2014 | 22 | 11 |

Source Agencies:

LBB Staff: JOB, GG, TMP, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

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

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

IN RE: HB1633 by Walle (Relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.), **Committee Report 1st House, Substituted**

The bill would amend the Penal Code, Code of Criminal Procedure, and Family Code as they relate to the criminal penalties and civil consequences of damaging property with graffiti. The provisions of the bill that are the subject of this analysis are those providing for penalty enhancement. Under the provisions of the bill an individual previously convicted two or more times of graffiti that also caused a pecuniary loss of any amount less than \$20,000 would be punished as a state jail felon. Under current statute, graffiti is punishable at all levels and is based on the amount of pecuniary loss.

In fiscal year 2008, approximately 174 persons were placed on community supervision (42 felony and 132 misdemeanor), approximately 29 persons were admitted to state jail, and one person was admitted to prison for the offense of graffiti. Based on arrest history data, direct court sentencing trends, and revocation rates, approximately 14 percent of the individuals would be sentenced to a term of incarceration in a state jail and approximately 21 percent of the individuals would be placed under felony community supervision annually as a result of the provision providing penalty enhancement for previous graffiti convictions.

Assuming sentencing patterns and release policies not addressed in this bill remain constant, the probable impact of implementing the provisions of the bill during each of the first five years following passage, in terms of daily demand upon the adult corrections agencies, is estimated as follows:

| Fiscal Year | Increase in Demand for Felony Community Supervision | Increase in Demand for State Jail Capacity |
|--------------------|--|---|
| 2010 | 26 | 18 |
| 2011 | 26 | 16 |
| 2012 | 24 | 14 |
| 2013 | 22 | 12 |
| 2014 | 22 | 11 |

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 11, 2009

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

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

IN RE: HB1633 by Walle (Relating to certain conditions imposed on defendants convicted of an offense of graffiti or juveniles adjudicated as having engaged in conduct involving graffiti.),
As Introduced

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, GG