

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Moody, Leibowitz, et al.

H.B. No. 2187

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution and punishment of offenses involving  
3 coercing, inducing, or soliciting membership in a criminal street  
4 gang.

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

6 SECTION 1. The heading to Section 71.022, Penal Code, is  
7 amended to read as follows:

8 Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP  
9 IN A CRIMINAL STREET GANG.

10 SECTION 2. Section 71.022, Penal Code, is amended by adding  
11 Subsections (a-1) and (d) to read as follows:

12 (a-1) A person commits an offense if, with intent to coerce,  
13 induce, or solicit a child to actively participate in the  
14 activities of a criminal street gang, the person:

15 (1) threatens the child with imminent bodily injury;  
16 or

17 (2) causes bodily injury to the child.

18 (d) In this section, "child" means an individual younger  
19 than 17 years of age.

20 SECTION 3. Section 22.015, Penal Code, is repealed.

21 SECTION 4. (a) The change in law made by this Act in  
22 amending Section 71.022, Penal Code, applies only to an offense  
23 committed on or after the effective date of this Act. An offense  
24 committed before the effective date of this Act is covered by the

1 law in effect when the offense was committed, and the former law is  
2 continued in effect for that purpose. For purposes of this section,  
3 an offense was committed before the effective date of this Act if  
4 any element of the offense occurred before that date.

5 (b) The repeal by this Act of Section 22.015, Penal Code,  
6 does not apply to an offense committed under that section before the  
7 effective date of the repeal. An offense committed before the  
8 effective date of the repeal is covered by that section as it  
9 existed on the date on which the offense was committed, and the  
10 former law is continued in effect for that purpose. For purposes of  
11 this subsection, an offense is committed before the effective date  
12 of the repeal if any element of the offense occurs before that date.

13 SECTION 5. This Act takes effect September 1, 2009.

# ADOPTED

MAY 21 2009

*Atty. Gen.*  
Secretary of the Senate

By: CARONA

H.B. No. 2187

Substitute the following for H.B. No. 2187:

By: *Carmon*

C.S.H.B. No. 2187

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10 SECTION 2. Section 71.022, Penal Code, is amended by adding  
11 Subsections (a-1) and (d) to read as follows:

12 (a-1) A person commits an offense if, with intent to coerce,  
13 induce, or solicit a child to actively participate in the  
14 activities of a criminal street gang, the person:

15 (1) threatens the child or a member of the child's  
16 family with imminent bodily injury; or

17 (2) causes bodily injury to the child or a member of  
18 the child's family.

19 (d) In this section:

20 (1) "Child" means an individual younger than 17 years  
21 of age.

22 (2) "Family" has the meaning assigned by Section  
23 71.003, Family Code.

24 SECTION 3. Section 22.015, Penal Code, is repealed.

1           SECTION 4. (a) The change in law made by this Act in  
2 amending Section 71.022, Penal Code, applies only to an offense  
3 committed on or after the effective date of this Act. An offense  
4 committed before the effective date of this Act is covered by the  
5 law in effect when the offense was committed, and the former law is  
6 continued in effect for that purpose. For purposes of this section,  
7 an offense was committed before the effective date of this Act if  
8 any element of the offense occurred before that date.

9           (b) The repeal by this Act of Section 22.015, Penal Code,  
10 does not apply to an offense committed under that section before the  
11 effective date of the repeal. An offense committed before the  
12 effective date of the repeal is covered by that section as it  
13 existed on the date on which the offense was committed, and the  
14 former law is continued in effect for that purpose. For purposes of  
15 this subsection, an offense is committed before the effective date  
16 of the repeal if any element of the offense occurs before that date.

17           SECTION 5. This Act takes effect September 1, 2009.

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

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

**May 21, 2009**

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

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

**IN RE: HB2187** by Moody (Relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Penal Code to repeal Section 22.015 and move the offense of threatening a child or a member of the child's family with imminent bodily injury or causing bodily injury to a child or a member of the child's family with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang to Section 71.022 of the Penal Code renamed Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang. The bill would increase the punishment for threatening a child with imminent bodily injury from a state jail felony to a felony of the third degree. The bill would make a second or subsequent offense of threatening or causing bodily injury punishable as a felony of the second degree.

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

It is assumed the number of persons convicted under this statute would not result in a significant impact on programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, SD, KJG, ESi, GG, TMP

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

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

May 11, 2009

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

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

**IN RE: HB2187** by Moody (Relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to repeal Section 22.015 and move the offense of threatening a child or a member of the child's family with imminent bodily injury or causing bodily injury to a child or a member of the child's family with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang to Section 71.022 of the Penal Code renamed Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang. The bill would increase the punishment for threatening a child with imminent bodily injury from a state jail felony to a felony of the third degree. The bill would make a second or subsequent offense of threatening or causing bodily injury punishable as a felony of the second degree.

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**Source Agencies:** 696 Department of Criminal Justice

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

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

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

**May 7, 2009**

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

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

**IN RE: HB2187** by Moody (Relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to repeal Section 22.015 and move the offense of threatening a child with imminent bodily injury or causing bodily injury to a child with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang to Section 71.022 of the Penal Code renamed Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang. The bill would increase the punishment for threatening a child with imminent bodily injury from a state jail felony to a felony of the third degree. The bill would make a second or subsequent offense of threatening or causing bodily injury punishable as a felony of the second degree.

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

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**Local Government Impact**

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**Source Agencies:** 696 Department of Criminal Justice

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

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

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

**March 16, 2009**

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

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

**IN RE: HB2187** by Moody (Relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to repeal Section 22.015 and move the offense of threatening a child with imminent bodily injury or causing bodily injury to a child with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang to Section 71.022 of the Penal Code renamed Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang. The bill would increase the punishment for threatening a child with imminent bodily injury from a state jail felony to a felony of the third degree. The bill would make a second or subsequent offense of threatening or causing bodily injury punishable as a felony of the second degree.

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**Local Government Impact**

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**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ESi, GG, TMP



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**March 16, 2009**

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

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

**IN RE: HB2187** by Moody (Relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.), **As Introduced**

The bill would amend the Penal Code to repeal Section 22.015 and move the offense of threatening a child with imminent bodily injury or causing bodily injury to a child with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang to Section 71.022 of the Penal Code renamed Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang. The bill would increase the punishment for threatening a child with imminent bodily injury from a state jail felony to a felony of the third degree. The bill would make a second or subsequent offense of threatening or causing bodily injury punishable as a felony of the second degree.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

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 community supervision, or, longer terms of confinement in county jails or prison. A review of Texas Department of Criminal Justice community supervision and incarceration data indicate less than 10 people per year would be affected by the provisions of the bill. Assuming the same number of offenders in future years, implementation of the provisions of the bill is not expected to have a significant impact on programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, TMP