

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

February 22, 2011

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

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

IN RE: HB221 by Fletcher (Relating to the punishment prescribed for burglary of a vehicle and to grants of community supervision to persons who commit that offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB221, As Introduced: a negative impact of (\$5,352,098) through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	(\$2,155,912)
2013	(\$3,196,186)
2014	(\$3,939,807)
2015	(\$4,446,589)
2016	(\$4,783,437)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2012	(\$2,155,912)
2013	(\$3,196,186)
2014	(\$3,939,807)
2015	(\$4,446,589)
2016	(\$4,783,437)

Fiscal Analysis

The bill would amend the Penal Code and Code of Criminal Procedure as they relate to the punishment for burglary of a vehicle and community supervision for individuals who commit this offense. Under the provisions of the bill, the Penal Code would be amended by making the offense of burglary of a vehicle punishable as a state jail felony. The offense of burglary of a vehicle is currently punishable as a state jail felony if the defendant has been previously convicted two or more times or the vehicle/part is a rail car; otherwise the offense is punishable as a Class A Misdemeanor. The bill would amend the Code of Criminal Procedure by requiring the judge to suspend the imposition of a sentence and place on community supervision an offender who meets certain requirements. The bill would also amend the Code of Criminal Procedure by specifying the maximum allowable hours of community service work ordered by the judge for defendants convicted of the offense of burglary of a vehicle.

The bill would repeal Section 30.04(d-1) of the Penal Code, related to defendants previously convicted for the

offense of burglary of a vehicle. The bill would also repeal provisions of the Code of Criminal Procedure relating to the minimum period of community supervision for offenders identified in the bill.

The bill would become effective September 1, 2011 and the change in law made by this Act would apply only to an offense committed on or after September 1, 2011. To the extent of this Act, an offense committed before September 1, 2011 is governed by the law in effect when the offense was committed.

Methodology

In fiscal year 2010, there were 51 offenders placed on felony community supervision and 156 offenders admitted to state jail for the offense of burglary of a vehicle punishable as a state jail felony. The population impact as a result of the provisions of the bill will come from defendants whose offense is currently punishable as a Class A Misdemeanor but would be punishable as a state jail felony as a result of the bill. In fiscal year 2010, there were 1,589 offenders placed on misdemeanor community supervision for a Class A Misdemeanor offense of burglary of a vehicle.

Based on fiscal year 2010 arrest trends, direct court commitments, and revocation rates, it is estimated that approximately 8 percent of the individuals convicted of a state jail felony for the offense of burglary of a vehicle would be sentenced to a term of incarceration in a state jail as either a direct court commitment or as a result of felony community supervision revocation; the remainder of the individuals would be placed under felony community supervision annually as a result of the bill. It is unknown how many of those offenders sentenced to a term of confinement would meet all of the requirements set forth in the Subsection added to Section 15, Article 42.12, Code of Criminal Procedure. The impact from this provision of the bill has not been included in this analysis because data necessary to estimate the impact of this provision are not available in statewide criminal history records. This provision of the bill would likely result in a decrease in the demand for state jail capacity and an increase in the demand for felony community supervision.

In order to estimate the future impact of the proposed conditions of the bill, the changes proposed for the offense of burglary of a vehicle policy are applied in a simulation model to: 1) a state jail population that reflects the distribution of offenses, sentence lengths, and time served; and 2) a felony community supervision model reflecting the increase in the number of people supervised. Costs of incarceration by the Department of Criminal Justice are estimated on the basis of \$43.03 per inmate per day for state jail facilities, reflecting costs per day for State-operated facilities in fiscal year 2010. The costs of felony community supervision are estimated on the basis of \$2.92 per day.

Local Government Impact

Increasing the penalty for the offense of burglary of a vehicle from a Class A Misdemeanor to a state jail felony would represent a shift in responsibility from local government to the State relating to the burden of confinement of convicted offenders. The shift in responsibility is expected to result in increased demands upon the correctional resources of the State; the expected positive impact to local government would be spread proportionately, based on the frequency of convictions.

Source Agencies:

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