

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB549 by Williams (Relating to penalties for engaging in organized criminal activity.),
As Passed 2nd House

Estimated Two-year Net Impact to General Revenue Related Funds for SB549, As Passed 2nd House: a negative impact of (\$2,157,415) through the biennium ending August 31, 2015.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$539,191)
2015	(\$1,618,224)
2016	(\$2,524,959)
2017	(\$3,238,931)
2018	(\$3,918,095)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2014	(\$539,191)
2015	(\$1,618,224)
2016	(\$2,524,959)
2017	(\$3,238,931)
2018	(\$3,918,095)

Fiscal Analysis

The bill would amend the Government Code and Code of Criminal Procedure as they relate to the penalties for engaging in organized criminal activity. Under the provisions of the bill, offenders engaging in organized criminal activity would be ineligible for mandatory supervision release or release on parole until they served, without consideration of good-conduct time, at least one-half of their sentences or 30 years, whichever is less, but no less than two years. The bill would also provide for enhancement of other offenses if the person was also engaging in organized criminal activity which could include a 15 year minimum term of confinement, and a 25 year minimum

term of confinement for directing activities of criminal street gangs. The bill would also provide for enhanced penalties for the offense of organized criminal activity related to aggravated sexual assault to include a sentence of life without parole, in certain circumstances.

Methodology

In fiscal year 2012, 616 offenders were admitted to state correctional facilities for organized criminal activity. The bill is expected to increase the length of incarceration for many of these offenders. To assess the impact on incarceration length, the actual release patterns for prisoners released in fiscal year 2012 were compared to the expected release patterns for these prisoners were the bill to be implemented.

Among fiscal year 2012 prison releases, 584 offenders were incarcerated for organized criminal activity. Under the provisions of the bill, these offenders would be ineligible for release on parole until they served, without consideration of good-conduct time, at least one-half of their sentences or 30 years, whichever is less, but no less than two years. The number of offenders whose offenses would be enhanced as a result of engaging in organized criminal activity is indeterminate due to the unavailability of reliable data or information providing the level of detail necessary to identify which other offenses as outlined in the engaging in organized criminal activity statute were enhanced because the person was also engaging in organized criminal activity. The bill's provisions related to organized criminal activity relating to aggravated sexual assault in certain circumstances is not anticipated to have a significant effect on state correctional resources. Fiscal year 2012 releases did not include offenders whose offense was directing activities of criminal street gangs. A review of on hand data indicates these offenders whose offense was directing activities of criminal street gangs have been sentenced to a term of incarceration greater than the 25 year minimum and would likely not be impacted by the provisions of the bill.

It is assumed the bill would only affect those offenders released prior to this new minimum requirement for time served. Among fiscal year 2012 releases, the bill would impact 202 parolees and 116 mandatory supervision releases. Since the Board of Pardons and Paroles authorized the release of these offenders prior to the new minimum release date, it is assumed that the Board would approve these offenders to be released on the new minimum release date if the bill were implemented.

To estimate the future impact, the daily costs of Texas Department of Criminal Justice incarceration are estimated to be \$50.04 per inmate for prison facilities. Since fewer prisoners would be released to parole supervision, daily savings to parole supervision are estimated to be \$3.63 per offender. For example, in fiscal year 2014, the cost is estimated to be \$581,365, which reflects the total number of additional days all affected offenders remain incarcerated in fiscal year 2014 (11,618 days) times the total cost per day per inmate (\$50.04). The fiscal year 2014 savings are estimated to be \$42,173, which reflects the number of fewer days affected prisoners were under parole supervision in fiscal year 2014 (11,618 days) times the total supervision cost per prisoner (\$3.63). The net fiscal impact is therefore \$539,191 (or \$581,365 minus \$42,173). In subsequent years, the fiscal impact is expected to increase as additional offenders are admitted to prison.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles
LBB Staff: UP, ESi, GG, LM