

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Guillen

H.B. No. 1028

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to increasing the criminal penalties for certain offenses  
3 committed in a disaster area or an evacuated area.

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

5 SECTION 1. Sections 12.50(b), (c), and (d), Penal Code, are  
6 amended to read as follows:

7 (b) The increase in punishment authorized by this section  
8 applies only to an offense under:

- 9 (1) Section 22.01;  
10 (2) Section 28.02;  
11 (3) Section 29.02;  
12 (4) [~~(3)~~] Section 30.02;  
13 (5) Section 30.03;  
14 (6) Section 30.04; and  
15 (7) [~~(4)~~] Section 31.03.

16 (c) [~~If an offense listed under Subsection (b)(1) or (4) is~~  
17 ~~punishable as a Class A misdemeanor, the minimum term of~~  
18 ~~confinement for the offense is increased to 180 days.] If an  
19 offense listed under Subsection (b)(2), [~~(b)(3) or~~] (4), or (7) is  
20 punishable as a felony of the first degree, the punishment for that  
21 offense may not be increased under this section.~~

22 (d) It is a defense to a charge under Subsection (b)(7)  
23 [~~(b)(4)~~] that the conduct in question meets the elements of  
24 necessity outlined in Section 9.22.

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

9           SECTION 3. This Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

*Leta Spaw*  
Secretary of the Senate

By: Huffman

H.B. No. 1028

Substitute the following for \_\_\_B. No. \_\_\_\_\_:

By: Huffman

C.S. H.B. No. 1028

A BILL TO BE ENTITLED

1

AN ACT

2 relating to increasing the criminal penalties for certain offenses  
3 committed in a disaster area or an evacuated area.

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

5 SECTION 1. Sections 12.50(b) and (c), Penal Code, are  
6 amended to read as follows:

7 (b) The increase in punishment authorized by this section  
8 applies only to an offense under:

- 9 (1) Section 22.01;  
10 (2) Section 28.02;  
11 (3) Section 29.02;  
12 (4) [~~3~~] Section 30.02;  
13 (5) Section 30.03;  
14 (6) Section 30.04;  
15 (7) Section 30.05; and  
16 (8) [~~4~~] Section 31.03.

17 (c) If an offense listed under Subsection (b)(1), (5), (6),  
18 (7), or (8) [~~4~~] is punishable as a Class A misdemeanor, the  
19 minimum term of confinement for the offense is increased to 180  
20 days. If an offense listed under Subsection (b)(2), [~~(b)(3) or~~]  
21 (4), or (8) is punishable as a felony of the first degree, the  
22 punishment for that offense may not be increased under this  
23 section.

24 SECTION 2. Section 12.50(d), Penal Code, is repealed.

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

9           SECTION 4. This Act takes effect September 1, 2019.

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 21, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **As Passed 2nd House**

**The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased because the offense occurred in these areas.**

The bill would amend the Penal Code to add certain offenses to the list of crimes for which the punishment would be increased if committed in a disaster or evacuated area.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative fiscal impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas.

**Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact on local entities.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, SD, DGi, CMa, LBO, LM, AF

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 10, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **Committee Report 2nd House, Substituted**

**The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased because the offense occurred in these areas.**

The bill would amend the Penal Code to add certain offenses to the list of crimes for which the punishment would be increased if committed in a disaster or evacuated area.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative fiscal impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas.

**Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact on local entities.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, DGi, CMa, LBO, LM, AF

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 8, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **As Engrossed**

**The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased because the offense occurred in these areas.**

The bill would amend the Penal Code to add certain offenses to the list of crimes for which the punishment would be increased if they are committed in a disaster or evacuated area.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas.

**Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact on local entities.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, CMa, DGi, LBO, LM, AF

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 20, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **Committee Report 1st House, Substituted**

**The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased because the offense occurred in these areas.**

The bill would amend the Penal Code to add certain offenses to the list of crimes for which the punishment would be increased if they are committed in a disaster or evacuated area.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas.

**Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact on local entities.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, DGi, LBO, LM, AF



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 3, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **As Introduced**

**The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased because the offense occurred in these areas.**

The bill would amend the Penal Code to add certain offenses to the list of crimes for which the punishment is increased if they are committed in a disaster or evacuated area.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas.

**Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact on local entities.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, LBO, LM, DGi, AF

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 10, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to add certain offenses to the list of those for which punishment would be increased to the next higher category if it is found at trial the offense was committed in a disaster or evacuated area.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative population impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant increase in correctional populations cannot be determined due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas. In fiscal year 2018, 8,735 people were arrested, 935 were placed under misdemeanor community supervision, 137 were placed under felony community supervision, and 383 were admitted into state correctional institutions for the offenses in which the punishment would be increased if committed in a disaster or evacuated area.

**Source Agencies:**

**LBB Staff:** WP, DGi, LM

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

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 8, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to add certain offenses to the list of those for which punishment would be increased to the next higher category if it is found at trial the offense was committed in a disaster or evacuated area.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative population impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant increase in correctional populations cannot be determined due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and the number of times the punishment would be increased at trial to the next higher category because the offense occurred in these areas. In fiscal year 2018, 5,794 people were arrested, 634 were placed under misdemeanor community supervision, 144 were placed under felony community supervision, and 383 were admitted into state correctional institutions for the offenses in which the punishment would be increased if committed in a disaster or evacuated area.

**Source Agencies:**

**LBB Staff:** WP, DGi, LM

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

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**March 20, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to add certain offenses to the list of those for which punishment would be increased to the next higher category if it is found at trial the offense was committed in a disaster or evacuated area.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment. A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant increase in correctional populations cannot be determined due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and would therefore make certain offenses eligible for the penalty enhancements outlined in the bill's provisions. In fiscal year 2018, 5,794 people were arrested, 634 were placed under misdemeanor community supervision, 144 were placed under felony community supervision, and 383 were admitted into state correctional institutions for the offenses in which the punishment would be increased if committed in a disaster or evacuated area.

**Source Agencies:**

**LBB Staff:** WP, DGi, LM

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

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**March 3, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1028** by Guillen (Relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to add certain offenses to the list of those for which punishment is increased to the next higher category if it is found at trial the offense was committed in a disaster or evacuated area.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A Misdemeanor punishment. A Class A Misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Increasing the penalty for any criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant increase in correctional populations cannot be determined due to the lack of data or information related to areas which would be impacted by future disasters or evacuations and would therefore make certain offenses eligible for the penalty enhancements outlined in the bill's provisions. In fiscal year 2018, 5,289 people were arrested, 632 were placed under misdemeanor community supervision, 47 were placed under felony community supervision, and 223 were admitted into state correctional institutions for the offenses in which the punishment would be increased if committed in a disaster or evacuated area.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi