

SENATE AMENDMENTS

2nd Printing

By: Coleman

H.B. No. 1240

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the offense of failure to comply with an order from a
3 fire marshal and the authority of certain county employees to issue
4 citations for certain violations; changing a criminal penalty.

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

6 SECTION 1. Section 352.022, Local Government Code, is
7 amended to read as follows:

8 Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. (a)
9 A person [~~An owner or occupant~~] who is subject to an order issued
10 under Section 352.016 commits an offense if that person fails to
11 comply with the order. Each refusal to comply is a separate
12 offense.

13 (b) Except as provided by Subsection (c), (d), or (e), an
14 [The] offense under this section is a Class C [B] misdemeanor.

15 (c) An offense under this section is a Class A misdemeanor
16 if the commission of the offense results in bodily injury or death.

17 (d) Unless Subsection (c) applies, if it is shown on the
18 trial of the offense that the defendant has been previously
19 convicted under this section, the offense is a Class B misdemeanor.

20 (e) If [~~unless~~] it is shown on the trial of the offense that
21 the defendant has been previously convicted two or more times under
22 this section, [~~in which event~~] the offense is a state jail felony.

23 SECTION 2. Subchapter B, Chapter 352, Local Government
24 Code, is amended by adding Section 352.0221 to read as follows:

1 Sec. 352.0221. AUTHORITY OF CERTAIN COUNTY EMPLOYEES TO
2 ISSUE CITATION. (a) The commissioners court of a county with a
3 population of two million or more or a county contiguous to a county
4 with a population of two million or more may grant the authority to
5 issue a citation under this section to a county employee who:

6 (1) is certified by the Texas Commission on Fire
7 Protection as a fire inspector;

8 (2) conducts fire or life safety inspections under
9 Section 352.016; and

10 (3) is not a peace officer.

11 (b) The employee may issue a citation in the unincorporated
12 area of the county only for:

13 (1) an offense under Section 352.022; or

14 (2) a violation of an order relating to fire or life
15 safety issued by the commissioners court that is reasonably
16 necessary to protect public safety and welfare.

17 (c) A citation issued under this section must state:

18 (1) the name of the person cited;

19 (2) the violation charged; and

20 (3) the time and place the person is required to appear
21 in court.

22 (d) If a person who receives a citation under this section
23 fails to appear in court on the return date of the citation, the
24 court may issue a warrant for the person's arrest for the violation
25 described in the citation.

26 SECTION 3. Section 352.022, Local Government Code, as
27 amended by this Act, applies only to an offense committed on or

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

7 SECTION 4. This Act takes effect September 1, 2021.

ADOPTED

MAY 22 2021

Latey Law
Secretary of the Senate

By: COLEMAN / MILES

H.B. No. 1240

Substitute the following for __.B. No. _____:

By: _____

C.S. __.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.

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

SECTION 1. Section 352.022, Local Government Code, is amended to read as follows:

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. (a) A person [~~An owner or occupant~~] who is subject to an order issued under Section 352.016 commits an offense if that person fails to comply with the order. Each refusal to comply is a separate offense.

(b) Except as provided by Subsection (c), (d), or (e), an [~~The~~] offense under this section is a Class C [~~B~~] misdemeanor.

(c) An offense under this section is a Class A misdemeanor if the commission of the offense results in bodily injury or death.

(d) Unless Subsection (c) applies, if it is shown on the trial of the offense that the defendant has been previously convicted under this section, the offense is a Class B misdemeanor.

(e) If [~~unless~~] it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, [~~in which event~~] the offense is a state jail felony.

SECTION 2. Subchapter B, Chapter 352, Local Government Code, is amended by adding Section 352.0221 to read as follows:

1 Sec. 352.0221. AUTHORITY OF CERTAIN COUNTY EMPLOYEES TO
2 ISSUE CITATION. (a) This section applies only to:

3 (1) a county with a population of 3.3 million or more;
4 and

5 (2) a county with a population of 550,000 or more
6 adjacent to a county with a population of 3.3 million or more.

7 (b) The commissioners court of a county to which this
8 section applies may grant the authority to issue a citation under
9 this section to a county employee who:

10 (1) is certified by the Texas Commission on Fire
11 Protection as a fire inspector;

12 (2) conducts fire or life safety inspections under
13 Section 352.016; and

14 (3) is not a peace officer.

15 (c) The employee may issue a citation in the unincorporated
16 area of the county only for:

17 (1) an offense under Section 352.022; or

18 (2) a violation of an order relating to fire or life
19 safety issued by the commissioners court that is reasonably
20 necessary to protect public safety and welfare.

21 (d) A citation issued under this section must state:

22 (1) the name of the person cited;

23 (2) the violation charged; and

24 (3) the time and place the person is required to appear
25 in court.

26 (e) This section does not authorize the employee to arrest a
27 person.

1 (f) If a person who receives a citation under this section
2 fails to appear in court on the return date of the citation, the
3 court may issue a warrant for the person's arrest for the violation
4 described in the citation.

5 SECTION 3. Section 352.022, Local Government Code, as
6 amended by this Act, applies only to an offense committed on or
7 after the effective date of this Act. An offense committed before
8 the effective date of this Act is governed by the law in effect on
9 the date the offense was committed, and the former law is continued
10 in effect for that purpose. For purposes of this section, an
11 offense was committed before the effective date of this Act if any
12 element of the offense was committed before that date.

13 SECTION 4. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 23, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to reduce the penalty for failure to comply with an order from a fire marshal from a Class B to a Class C misdemeanor, unless it is shown on the trial of the offense that the defendant has been previously convicted of the same offense, and to increase the penalty for the offense from a Class B to a Class A misdemeanor if the commission of the offense results in bodily injury or death. The bill would also authorize certain counties to grant the authority to issue a related citation to certain county employees not currently authorized.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

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

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. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution and revenue from fines imposed and collected are not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: JMc, LBO, AF, CMA, ANE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 12, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to reduce the penalty for failure to comply with an order from a fire marshal from a Class B to a Class C misdemeanor, unless it is shown on the trial of the offense that the defendant has been previously convicted of the same offense, and to increase the penalty for the offense from a Class B to a Class A misdemeanor if the commission of the offense results in bodily injury or death. The bill would also authorize certain counties to grant the authority to issue a related citation to certain county employees not currently authorized.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

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

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. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution and revenue from fines imposed and collected are not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: JMc, AF, CMA, ANE

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 9, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to reduce the penalty for failure to comply with an order from a fire marshal from a Class B to a Class C misdemeanor in certain circumstances. The bill would also authorize certain counties to grant the authority to issue these citations to certain county employees not currently authorized.

This analysis assumes that any costs associated with the bill could be absorbed using existing resources and that implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

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

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition.

Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: JMc, AF, CMA, ANE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 31, 2021

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to reduce the penalty for failure to comply with an order from a fire marshal from a Class B to a Class C misdemeanor in certain circumstances. The bill would also authorize certain counties to grant the authority to issue these citations to certain county employees not currently authorized.

This analysis assumes that any costs associated with the bill could be absorbed using existing resources and that implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

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

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition.

Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: JMc, AF, CMA, ANE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 17, 2021

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to reduce the penalty for failure to comply with an order from a fire marshal from a Class B to a Class C misdemeanor in certain circumstances. The bill would also authorize certain counties to grant the authority to issue these citations to certain county employees not currently authorized.

This analysis assumes that any costs associated with the bill could be absorbed using existing resources and that implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

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

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition.

Lost revenue from reduced fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: JMc, AF, CMa, ANe

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

May 23, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Local Government Code as it relates to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations. Under the provisions of the bill, the applicability of penalties for the failure to comply with an order to correct a fire or life safety hazard would range from a Class C misdemeanor through a state jail felony.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or a class A misdemeanor. In addition to confinement, most felonies have an optional fine not to exceed \$10,000. 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. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000. A Class C misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition and no confinement).

Expanding the applicability of an offense for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. On average, for fiscal years 2018 through 2020, fewer than ten people were arrested, fewer than ten were placed on direct community supervision, and fewer than ten were admitted into a state correctional institution for failure to comply with an order to correct a fire or life safety hazard under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, LBO, LM, DGI, AF

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

March 31, 2021

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Local Government Code as it relates to county fire protection. Under the provisions of the bill, the applicability of penalties for the failure to comply with an order to correct a fire or life safety hazard would range from a Class C misdemeanor through a state jail felony.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or a class A misdemeanor. In addition to confinement, most felonies have an optional fine not to exceed \$10,000. 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. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000. A Class C misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition and no confinement).

Expanding the applicability of an offense for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. On average, for fiscal years 2018 through 2020, fewer than ten people were arrested, fewer than ten were placed on direct community supervision, and fewer than ten were admitted into a state correctional institution for failure to comply with an order to correct a fire or life safety hazard under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, AF, LM, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
87TH LEGISLATIVE REGULAR SESSION

March 17, 2021

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1240 by Coleman (Relating to the offense of failure to comply with an order from a fire marshal and the authority of certain county employees to issue citations for certain violations; changing a criminal penalty.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Local Government Code as it relates to county fire protection. Under the provisions of the bill, the applicability of penalties for the failure to comply with an order to correct a fire or life safety hazard would range from a Class C misdemeanor through a state jail felony.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or a class A misdemeanor. In addition to confinement, most felonies have an optional fine not to exceed \$10,000. 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. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000. A Class C misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition and no confinement).

Expanding the applicability of an offense for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. On average, for fiscal years 2018 through 2020, fewer than ten people were arrested, fewer than ten were placed on direct community supervision, and fewer than ten were admitted into a state correctional institution for failure to comply with an order to correct a fire or life safety hazard under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, AF, LM, DGi