

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 1st CALLED SESSION 2023

June 5, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB5 by Flores (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Introduced**

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would provide for punishment at the next highest category of offense with a ten year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area, except that the minimum term of imprisonment would be fifteen years if the smuggling of persons or continuous smuggling of persons offense is a first degree felony. The bill would provide felony punishment enhancements and consecutive sentencing for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law. The impact on state correctional populations or on the demand for state correctional resources related to these increased penalties cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would increase the minimum term of imprisonment to ten years for the offenses of smuggling of persons and continuous smuggling of persons, except that the minimum term of imprisonment for the offense of smuggling of persons would be five years if the actor provided certain significant cooperation to the state or law enforcement. The bill would increase the minimum term of imprisonment to five years for the offense of operation of a stash house and make it punishable as a third degree felony or as a second degree felony under certain conditions. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The estimated impact on adult correctional populations would follow both the fiscal year 2022 observed rate of admission to prison and the average time between offense and admission to prison for these smuggling offenses. The impact on state correctional populations related to the increased minimum terms of confinement could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the uniform cost per day for an adult incarcerated in a Texas Department of Criminal Justice systemwide facility was \$77.49.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, increasing the penalty for an existing offense may result in additional demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

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