

SENATE AMENDMENTS

2nd Printing

By: Guillen, Raymond, Muñoz, Jr., Lozano,
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H.B. No. 2

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for certain criminal conduct involving
3 the smuggling of persons or the operation of a stash house;
4 increasing criminal penalties.

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

6 SECTION 1. If H.B. No. 165, Acts of the 88th Legislature,
7 Regular Session, 2023, becomes law, Section 3.03, Penal Code, as
8 effective September 1, 2023, is amended by amending Subsection (a)
9 and adding Subsections (d) and (e) to read as follows:

10 (a) When the accused is found guilty of more than one
11 offense arising out of the same criminal episode prosecuted in a
12 single criminal action, a sentence for each offense for which the
13 accused has been found guilty shall be pronounced. Except as
14 otherwise provided by this section [~~Subsections (b) and (c)~~], the
15 sentences shall run concurrently.

16 (d)(1) This subsection applies only to a single criminal
17 action in which the accused is found guilty of:

18 (A) an offense under Section 20.05(a)(2) or an
19 offense under Section 20.06 involving conduct constituting an
20 offense under Section 20.05(a)(2); and

21 (B) an offense punishable under Section
22 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
23 38.04(b-1) that arises out of the same criminal episode as the
24 offense described by Paragraph (A).

1 (2) The sentence for an offense described by
2 Subdivision (1)(A) may run consecutively with each sentence for an
3 offense described by Subdivision (1)(B).

4 (3) If the accused is found guilty of more than one
5 offense described by Subdivision (1)(A), the sentences for those
6 offenses must run concurrently with each other.

7 (e) Except as otherwise provided by this subsection, if in a
8 single criminal action the accused is found guilty of more than one
9 offense arising out of the same criminal episode, the sentences may
10 run consecutively if each sentence is for a conviction of an offense
11 for which a plea agreement was reached in a case in which the
12 accused was charged with an offense described by Subsection
13 (d)(1)(A) and an offense described by Subsection (d)(1)(B). If the
14 accused is found guilty of more than one offense described by
15 Subsection (d)(1)(A), the sentences for those offenses must run
16 concurrently with each other.

17 SECTION 2. If H.B. No. 165, Acts of the 88th Legislature,
18 Regular Session, 2023, does not become law, Section 3.03, Penal
19 Code, is amended by amending Subsection (a) and adding Subsections
20 (c) and (d) to read as follows:

21 (a) When the accused is found guilty of more than one
22 offense arising out of the same criminal episode prosecuted in a
23 single criminal action, a sentence for each offense for which the
24 accused [~~he~~] has been found guilty shall be pronounced. Except as
25 otherwise provided by this section [~~Subsection (b)~~], the sentences
26 shall run concurrently.

27 (c)(1) This subsection applies only to a single criminal

1 action in which the accused is found guilty of:

2 (A) an offense under Section 20.05(a)(2) or an
3 offense under Section 20.06 involving conduct constituting an
4 offense under Section 20.05(a)(2); and

5 (B) an offense punishable under Section
6 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
7 38.04(b-1) that arises out of the same criminal episode as the
8 offense described by Paragraph (A).

9 (2) The sentence for an offense described by
10 Subdivision (1)(A) may run consecutively with each sentence for an
11 offense described by Subdivision (1)(B).

12 (3) If the accused is found guilty of more than one
13 offense described by Subdivision (1)(A), the sentences for those
14 offenses must run concurrently with each other.

15 (d) Except as otherwise provided by this subsection, if in a
16 single criminal action the accused is found guilty of more than one
17 offense arising out of the same criminal episode, the sentences may
18 run consecutively if each sentence is for a conviction of an offense
19 for which a plea agreement was reached in a case in which the
20 accused was charged with an offense described by Subsection
21 (c)(1)(A) and an offense described by Subsection (c)(1)(B). If the
22 accused is found guilty of more than one offense described by
23 Subsection (c)(1)(A), the sentences for those offenses must run
24 concurrently with each other.

25 SECTION 3. Section 12.50, Penal Code, is amended by
26 amending Subsections (a), (b), and (c) and adding Subsection (d) to
27 read as follows:

1 (a) Subject to Subsections [~~Subsection~~] (c) and (d), the
2 punishment for an offense described by Subsection (b) is increased
3 to the punishment prescribed for the next higher category of
4 offense if it is shown on the trial of the offense that the offense
5 was committed in an area that was, at the time of the offense:

6 (1) subject to a declaration of a state of disaster
7 made by:

8 (A) the president of the United States under the
9 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
10 U.S.C. Section 5121 et seq.);

11 (B) the governor under Section 418.014,
12 Government Code; or

13 (C) the presiding officer of the governing body
14 of a political subdivision under Section 418.108, Government Code;
15 or

16 (2) subject to an emergency evacuation order.

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

19 (1) Section 20.05;

20 (2) Section 20.06;

21 (3) Section 20.07;

22 (4) Section 22.01;

23 (5) [~~2~~] Section 28.02;

24 (6) [~~3~~] Section 29.02;

25 (7) [~~4~~] Section 30.02;

26 (8) [~~5~~] Section 30.03;

27 (9) [~~6~~] Section 30.04;

1 (10) [~~(7)~~] Section 30.05; and

2 (11) [~~(8)~~] Section 31.03.

3 (c) If an offense listed under Subsection (b) [~~(b)(1), (5),~~
4 ~~(6), (7), or (8)~~] is punishable as a Class A misdemeanor, the
5 minimum term of confinement for the offense is increased to 180
6 days. Except as provided by Subsection (d), if [~~If~~] an offense
7 listed under Subsection (b) [~~(b)(2), (4), or (8)~~] is punishable as a
8 felony of the first degree, the punishment for that offense may not
9 be increased under this section.

10 (d) Except as otherwise provided by this subsection, the
11 minimum term of imprisonment for an offense listed under Subsection
12 (b)(1), (2), or (3) for which punishment is increased under this
13 section is 10 years. If an offense listed under Subsection (b)(1)
14 or (2) is punishable as a felony of the first degree, the minimum
15 term of imprisonment is increased to 15 years unless another
16 provision of law applicable to the offense provides for a minimum
17 term of imprisonment of 15 years or more.

18 SECTION 4. Section 20.05, Penal Code, is amended by
19 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
20 read as follows:

21 (b) Subject to Subsections (b-1) and (b-2), an [~~An~~] offense
22 under this section is a felony of the third degree with a term of
23 imprisonment of 10 years, except that the offense is:

24 (1) a felony of the second degree with a minimum term
25 of imprisonment of 10 years if:

26 (A) the actor commits the offense in a manner
27 that creates a substantial likelihood that the smuggled individual

1 will suffer serious bodily injury or death;

2 (B) the smuggled individual is a child younger
3 than 18 years of age at the time of the offense;

4 (C) the offense was committed with the intent to
5 obtain a pecuniary benefit;

6 (D) during the commission of the offense the
7 actor, another party to the offense, or an individual assisted,
8 guided, or directed by the actor knowingly possessed a firearm; or

9 (E) the actor commits the offense under
10 Subsection (a)(1)(B); or

11 (2) a felony of the first degree with a minimum term of
12 imprisonment of 10 years if:

13 (A) it is shown on the trial of the offense that,
14 as a direct result of the commission of the offense, the smuggled
15 individual became a victim of sexual assault, as defined by Section
16 22.011, or aggravated sexual assault, as defined by Section 22.021;
17 or

18 (B) the smuggled individual suffered serious
19 bodily injury or death.

20 (b-1) If at the punishment stage of the trial or at the time
21 of entering a plea agreement for an offense under this section
22 punishable as a felony of the third degree, the attorney
23 representing the state in the prosecution of the offense certifies
24 to the court in writing that the actor has provided significant
25 cooperation to the state or law enforcement, and describes the
26 manner of cooperation, the minimum term of imprisonment is five
27 years. The certification is confidential and shall be sealed by the

1 court, except that the certification may be accessed by the office
2 of the attorney representing the state, the attorney representing
3 the defendant, and the court. For purposes of this subsection,
4 "significant cooperation" includes:

5 (1) testifying in a trial on behalf of the state
6 against other parties to the offense;

7 (2) providing relevant information regarding the case
8 and other parties to the offense;

9 (3) providing information that furthers the
10 investigation of the charged offense and any other parties
11 involved; or

12 (4) providing information that aids law enforcement.

13 (b-2) At the punishment stage of a trial of an offense under
14 this section, other than an offense punishable under Subsection
15 (b)(1)(A) or (b)(2), the actor may raise the issue as to whether the
16 actor is related to the smuggled individual in the third or fourth
17 degree of consanguinity or, at the time of the offense, in the third
18 or fourth degree of affinity. If the actor proves the issue in the
19 affirmative by a preponderance of the evidence, the offense is a
20 felony of the third degree with a minimum term of imprisonment of
21 five years.

22 SECTION 5. Sections 20.06(e) and (f), Penal Code, are
23 amended to read as follows:

24 (e) Except as provided by Subsections (f) and (g), an
25 offense under this section is a felony of the second degree with a
26 minimum term of imprisonment of 10 years.

27 (f) An offense under this section is a felony of the first

1 degree with a minimum term of imprisonment of 10 years if:

2 (1) the conduct constituting an offense under Section
3 20.05 is conducted in a manner that creates a substantial
4 likelihood that the smuggled individual will suffer serious bodily
5 injury or death; or

6 (2) the smuggled individual is a child younger than 18
7 years of age at the time of the offense.

8 SECTION 6. Section 20.07(b), Penal Code, is amended to read
9 as follows:

10 (b) An offense under this section is a felony of the third
11 degree with a minimum term of imprisonment of five years, except
12 that the offense is a felony of the second degree with a minimum
13 term of imprisonment of five years if:

14 (1) the offense is committed under Subsection (a)(1)
15 and the property that is the subject of the offense is used to
16 commit or facilitate the commission of an offense under Section
17 20.06, 20A.03, or 43.05; or

18 (2) it is shown on the trial of the offense that as a
19 direct result of the commission of the offense:

20 (A) an individual became a victim of sexual
21 assault, as defined by Section 22.011, or aggravated sexual
22 assault, as defined by Section 22.021; or

23 (B) an individual suffered serious bodily injury
24 or death [~~Class A misdemeanor~~].

25 SECTION 7. Section 22.01, Penal Code, is amended by adding
26 Subsection (b-4) to read as follows:

27 (b-4) Notwithstanding Subsection (b), an offense under

1 Subsection (a)(1) is a felony of the third degree if it is shown on
2 the trial of the offense that the actor committed the offense in the
3 course of committing an offense under Section 20.05(a)(2).

4 SECTION 8. Chapter 28, Penal Code, is amended by adding
5 Section 28.10 to read as follows:

6 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
7 STATE JAIL FELONIES. The punishment for an offense under this
8 chapter that is punishable as a misdemeanor or a state jail felony
9 is increased to the punishment for a felony of the third degree if
10 it is shown on the trial of the offense that the actor committed the
11 offense in the course of committing an offense under Section
12 20.05(a)(2).

13 SECTION 9. Section 30.02, Penal Code, is amended by
14 amending Subsection (c) and adding Subsection (c-2) to read as
15 follows:

16 (c) Except as provided in Subsection (c-1), (c-2), or (d),
17 an offense under this section is a:

18 (1) state jail felony if committed in a building other
19 than a habitation; or

20 (2) felony of the second degree if committed in a
21 habitation.

22 (c-2) An offense under this section is a felony of the third
23 degree if:

24 (1) the premises are a building other than a
25 habitation; and

26 (2) it is shown on the trial of the offense that the
27 actor committed the offense in the course of committing an offense

1 under Section 20.05(a)(2).

2 SECTION 10. Section 30.04(d), Penal Code, is amended to
3 read as follows:

4 (d) An offense under this section is a Class A misdemeanor,
5 except that:

6 (1) the offense is a Class A misdemeanor with a minimum
7 term of confinement of six months if it is shown on the trial of the
8 offense that the defendant has been previously convicted of an
9 offense under this section;

10 (2) the offense is a state jail felony if:

11 (A) it is shown on the trial of the offense that
12 the defendant has been previously convicted two or more times of an
13 offense under this section; or

14 (B) the vehicle or part of the vehicle broken
15 into or entered is a rail car; and

16 (3) the offense is a felony of the third degree if:

17 (A) the vehicle broken into or entered is owned
18 or operated by a wholesale distributor of prescription drugs~~[+]~~ and

19 ~~[(B)]~~ the actor breaks into or enters that
20 vehicle with the intent to commit theft of a controlled substance;

21 or

22 (B) it is shown on the trial of the offense that
23 the actor committed the offense in the course of committing an
24 offense under Section 20.05(a)(2).

25 SECTION 11. Section 30.05(d), Penal Code, is amended to
26 read as follows:

27 (d) Subject to Subsection (d-3), an offense under this

1 section is:

2 (1) a Class B misdemeanor, except as provided by
3 Subdivisions (2), ~~[and]~~ (3), and (4);

4 (2) a Class C misdemeanor, except as provided by
5 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is
6 committed:

7 (A) on agricultural land and within 100 feet of
8 the boundary of the land; or

9 (B) on residential land and within 100 feet of a
10 protected freshwater area; ~~[and]~~

11 (3) a Class A misdemeanor, except as provided by
12 Subdivision (4), if:

13 (A) the offense is committed:

14 (i) in a habitation or a shelter center;

15 (ii) on a Superfund site; or

16 (iii) on or in a critical infrastructure
17 facility;

18 (B) the offense is committed on or in property of
19 an institution of higher education and it is shown on the trial of
20 the offense that the person has previously been convicted of:

21 (i) an offense under this section relating
22 to entering or remaining on or in property of an institution of
23 higher education; or

24 (ii) an offense under Section 51.204(b)(1),
25 Education Code, relating to trespassing on the grounds of an
26 institution of higher education;

27 (C) the person carries a deadly weapon during the

1 commission of the offense; or

2 (D) the offense is committed on the property of
3 or within a general residential operation operating as a
4 residential treatment center; and

5 (4) a felony of the third degree if it is shown on the
6 trial of the offense that the defendant committed the offense in the
7 course of committing an offense under Section 20.05(a)(2).

8 SECTION 12. Section 38.04, Penal Code, is amended by adding
9 Subsection (b-1) to read as follows:

10 (b-1) Notwithstanding Subsection (b), an offense under this
11 section is a felony of the third degree if it is shown on the trial
12 of the offense that the actor committed the offense in the course of
13 committing an offense under Section 20.05(a)(2).

14 SECTION 13. The changes in law made by this Act apply only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 governed by the law in effect on the date the offense was committed,
18 and the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before the
20 effective date of this Act if any element of the offense was
21 committed before that date.

22 SECTION 14. This Act takes effect October 1, 2023.

ADOPTED

JUN 08 2023

Laticy Saw
Secretary of the Senate

By: Peter P. Stone

H.B. No. 2

Substitute the following for H.B. No. 2:

By: Peter P. Stone

C.S. ~~H.~~B. No. 2

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the punishment for certain criminal conduct involving
3 the smuggling of persons or the operation of a stash house;
4 increasing criminal penalties.

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

6 SECTION 1. If H.B. No. 165, Acts of the 88th Legislature,
7 Regular Session, 2023, becomes law, Section 3.03, Penal Code, as
8 effective September 1, 2023, is amended by amending Subsection (a)
9 and adding Subsections (d) and (e) to read as follows:

10 (a) When the accused is found guilty of more than one
11 offense arising out of the same criminal episode prosecuted in a
12 single criminal action, a sentence for each offense for which the
13 accused has been found guilty shall be pronounced. Except as
14 otherwise provided by this section [~~Subsections (b) and (c)~~], the
15 sentences shall run concurrently.

16 (d)(1) This subsection applies only to a single criminal
17 action in which the accused is found guilty of:

18 (A) an offense under Section 20.05(a)(2) or an
19 offense under Section 20.06 involving conduct constituting an
20 offense under Section 20.05(a)(2); and

21 (B) an offense punishable under Section
22 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
23 38.04(b-1) that arises out of the same criminal episode as the
24 offense described by Paragraph (A).

1 (2) The sentence for an offense described by
2 Subdivision (1)(A) may run consecutively with each sentence for an
3 offense described by Subdivision (1)(B).

4 (3) If the accused is found guilty of more than one
5 offense described by Subdivision (1)(A), the sentences for those
6 offenses must run concurrently with each other.

7 (e) Except as otherwise provided by this subsection, if in a
8 single criminal action the accused is found guilty of more than one
9 offense arising out of the same criminal episode, the sentences may
10 run consecutively if each sentence is for a conviction of an offense
11 for which a plea agreement was reached in a case in which the
12 accused was charged with an offense described by Subsection
13 (d)(1)(A) and an offense described by Subsection (d)(1)(B). If the
14 accused is found guilty of more than one offense described by
15 Subsection (d)(1)(A), the sentences for those offenses must run
16 concurrently with each other.

17 SECTION 2. If H.B. No. 165, Acts of the 88th Legislature,
18 Regular Session, 2023, does not become law, Section 3.03, Penal
19 Code, is amended by amending Subsection (a) and adding Subsections
20 (c) and (d) to read as follows:

21 (a) When the accused is found guilty of more than one
22 offense arising out of the same criminal episode prosecuted in a
23 single criminal action, a sentence for each offense for which the
24 accused [~~he~~] has been found guilty shall be pronounced. Except as
25 otherwise provided by this section [~~Subsection (b)~~], the sentences
26 shall run concurrently.

27 (c)(1) This subsection applies only to a single criminal

1 action in which the accused is found guilty of:

2 (A) an offense under Section 20.05(a)(2) or an
3 offense under Section 20.06 involving conduct constituting an
4 offense under Section 20.05(a)(2); and

5 (B) an offense punishable under Section
6 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
7 38.04(b-1) that arises out of the same criminal episode as the
8 offense described by Paragraph (A).

9 (2) The sentence for an offense described by
10 Subdivision (1)(A) may run consecutively with each sentence for an
11 offense described by Subdivision (1)(B).

12 (3) If the accused is found guilty of more than one
13 offense described by Subdivision (1)(A), the sentences for those
14 offenses must run concurrently with each other.

15 (d) Except as otherwise provided by this subsection, if in a
16 single criminal action the accused is found guilty of more than one
17 offense arising out of the same criminal episode, the sentences may
18 run consecutively if each sentence is for a conviction of an offense
19 for which a plea agreement was reached in a case in which the
20 accused was charged with an offense described by Subsection
21 (c)(1)(A) and an offense described by Subsection (c)(1)(B). If the
22 accused is found guilty of more than one offense described by
23 Subsection (c)(1)(A), the sentences for those offenses must run
24 concurrently with each other.

25 SECTION 3. Section 12.50, Penal Code, is amended by
26 amending Subsections (a), (b), and (c) and adding Subsection (d) to
27 read as follows:

1 (a) Subject to Subsections [~~Subsection~~] (c) and (d), the
2 punishment for an offense described by Subsection (b) is increased
3 to the punishment prescribed for the next higher category of
4 offense if it is shown on the trial of the offense that the offense
5 was committed in an area that was, at the time of the offense:

6 (1) subject to a declaration of a state of disaster
7 made by:

8 (A) the president of the United States under the
9 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
10 U.S.C. Section 5121 et seq.);

11 (B) the governor under Section 418.014,
12 Government Code; or

13 (C) the presiding officer of the governing body
14 of a political subdivision under Section 418.108, Government Code;
15 or

16 (2) subject to an emergency evacuation order.

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

19 (1) Section 20.05;

20 (2) Section 20.06;

21 (3) Section 20.07;

22 (4) Section 22.01;

23 (5) [~~2~~] Section 28.02;

24 (6) [~~3~~] Section 29.02;

25 (7) [~~4~~] Section 30.02;

26 (8) [~~5~~] Section 30.03;

27 (9) [~~6~~] Section 30.04;

1 (10) [~~(7)~~] Section 30.05; and

2 (11) [~~(8)~~] Section 31.03.

3 (c) If an offense listed under Subsection (b) [~~(b)(1), (5),~~
4 ~~(6), (7), or (8)~~] is punishable as a Class A misdemeanor, the
5 minimum term of confinement for the offense is increased to 180
6 days. Except as provided by Subsection (d), if [~~if~~] an offense
7 listed under Subsection (b) [~~(b)(2), (4), or (8)~~] is punishable as a
8 felony of the first degree, the punishment for that offense may not
9 be increased under this section.

10 (d) Except as otherwise provided by this subsection, the
11 minimum term of imprisonment for an offense listed under Subsection
12 (b)(1), (2), or (3) for which punishment is increased under this
13 section is 10 years. If an offense listed under Subsection (b)(1)
14 or (2) is punishable as a felony of the first degree, the minimum
15 term of imprisonment is increased to 15 years unless another
16 provision of law applicable to the offense provides for a minimum
17 term of imprisonment of 15 years or more.

18 SECTION 4. Section 20.05, Penal Code, is amended by
19 amending Subsection (b) and adding Subsection (b-1) to read as
20 follows:

21 (b) Subject to Subsection (b-1), an [~~A~~] offense under this
22 section is a felony of the third degree with a term of imprisonment
23 of 10 years, except that the offense is:

24 (1) a felony of the second degree with a minimum term
25 of imprisonment of 10 years if:

26 (A) the actor commits the offense in a manner
27 that creates a substantial likelihood that the smuggled individual

1 will suffer serious bodily injury or death;

2 (B) the smuggled individual is a child younger
3 than 18 years of age at the time of the offense;

4 (C) the offense was committed with the intent to
5 obtain a pecuniary benefit;

6 (D) during the commission of the offense the
7 actor, another party to the offense, or an individual assisted,
8 guided, or directed by the actor knowingly possessed a firearm; or

9 (E) the actor commits the offense under
10 Subsection (a)(1)(B); or

11 (2) a felony of the first degree with a minimum term of
12 imprisonment of 10 years if:

13 (A) it is shown on the trial of the offense that,
14 as a direct result of the commission of the offense, the smuggled
15 individual became a victim of sexual assault, as defined by Section
16 22.011, or aggravated sexual assault, as defined by Section 22.021;
17 or

18 (B) the smuggled individual suffered serious
19 bodily injury or death.

20 (b-1) If at the punishment stage of the trial or at the time
21 of entering a plea agreement for an offense under this section
22 punishable as a felony of the third degree, the attorney
23 representing the state in the prosecution of the offense certifies
24 to the court in writing that the actor has provided significant
25 cooperation to the state or law enforcement, and describes the
26 manner of cooperation, the minimum term of imprisonment is five
27 years. The certification is confidential and shall be sealed by the

1 court, except that the certification may be accessed by the office
2 of the attorney representing the state, the attorney representing
3 the defendant, and the court. For purposes of this subsection,
4 "significant cooperation" includes:

5 (1) testifying in a trial on behalf of the state
6 against other parties to the offense;

7 (2) providing relevant information regarding the case
8 and other parties to the offense;

9 (3) providing information that furthers the
10 investigation of the charged offense and any other parties
11 involved; or

12 (4) providing information that aids law enforcement.

13 SECTION 5. Sections 20.06(e) and (f), Penal Code, are
14 amended to read as follows:

15 (e) Except as provided by Subsections (f) and (g), an
16 offense under this section is a felony of the second degree with a
17 minimum term of imprisonment of 10 years.

18 (f) An offense under this section is a felony of the first
19 degree with a minimum term of imprisonment of 10 years if:

20 (1) the conduct constituting an offense under Section
21 20.05 is conducted in a manner that creates a substantial
22 likelihood that the smuggled individual will suffer serious bodily
23 injury or death; or

24 (2) the smuggled individual is a child younger than 18
25 years of age at the time of the offense.

26 SECTION 6. Section 20.07(b), Penal Code, is amended to read
27 as follows:

1 (b) An offense under this section is a felony of the third
2 degree with a minimum term of imprisonment of five years, except
3 that the offense is a felony of the second degree with a minimum
4 term of imprisonment of five years if:

5 (1) the offense is committed under Subsection (a)(1)
6 and the property that is the subject of the offense is used to
7 commit or facilitate the commission of an offense under Section
8 20.06, 20A.03, or 43.05; or

9 (2) it is shown on the trial of the offense that as a
10 direct result of the commission of the offense:

11 (A) an individual became a victim of sexual
12 assault, as defined by Section 22.011, or aggravated sexual
13 assault, as defined by Section 22.021; or

14 (B) an individual suffered serious bodily injury
15 or death [~~Class A misdemeanor~~].

16 SECTION 7. Section 22.01, Penal Code, is amended by adding
17 Subsection (b-4) to read as follows:

18 (b-4) Notwithstanding Subsection (b), an offense under
19 Subsection (a)(1) is a felony of the third degree if it is shown on
20 the trial of the offense that the actor committed the offense in the
21 course of committing an offense under Section 20.05(a)(2).

22 SECTION 8. Chapter 28, Penal Code, is amended by adding
23 Section 28.10 to read as follows:

24 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
25 STATE JAIL FELONIES. The punishment for an offense under this
26 chapter that is punishable as a misdemeanor or a state jail felony
27 is increased to the punishment for a felony of the third degree if

1 it is shown on the trial of the offense that the actor committed the
2 offense in the course of committing an offense under Section
3 20.05(a)(2).

4 SECTION 9. Section 30.02, Penal Code, is amended by
5 amending Subsection (c) and adding Subsection (c-2) to read as
6 follows:

7 (c) Except as provided in Subsection (c-1), (c-2), or (d),
8 an offense under this section is a:

9 (1) state jail felony if committed in a building other
10 than a habitation; or

11 (2) felony of the second degree if committed in a
12 habitation.

13 (c-2) An offense under this section is a felony of the third
14 degree if:

15 (1) the premises are a building other than a
16 habitation; and

17 (2) it is shown on the trial of the offense that the
18 actor committed the offense in the course of committing an offense
19 under Section 20.05(a)(2).

20 SECTION 10. Section 30.04(d), Penal Code, is amended to
21 read as follows:

22 (d) An offense under this section is a Class A misdemeanor,
23 except that:

24 (1) the offense is a Class A misdemeanor with a minimum
25 term of confinement of six months if it is shown on the trial of the
26 offense that the defendant has been previously convicted of an
27 offense under this section;

1 (2) the offense is a state jail felony if:

2 (A) it is shown on the trial of the offense that
3 the defendant has been previously convicted two or more times of an
4 offense under this section; or

5 (B) the vehicle or part of the vehicle broken
6 into or entered is a rail car; and

7 (3) the offense is a felony of the third degree if:

8 (A) the vehicle broken into or entered is owned
9 or operated by a wholesale distributor of prescription drugs[+] and
10 [~~B~~] the actor breaks into or enters that
11 vehicle with the intent to commit theft of a controlled substance;
12 or

13 (B) it is shown on the trial of the offense that
14 the actor committed the offense in the course of committing an
15 offense under Section 20.05(a)(2).

16 SECTION 11. Section 30.05(d), Penal Code, is amended to
17 read as follows:

18 (d) Subject to Subsection (d-3), an offense under this
19 section is:

20 (1) a Class B misdemeanor, except as provided by
21 Subdivisions (2), [~~and~~] (3), and (4);

22 (2) a Class C misdemeanor, except as provided by
23 Subdivisions [~~Subdivision~~] (3) and (4), if the offense is
24 committed:

25 (A) on agricultural land and within 100 feet of
26 the boundary of the land; or

27 (B) on residential land and within 100 feet of a

1 protected freshwater area; [~~and~~]

2 (3) a Class A misdemeanor, except as provided by
3 Subdivision (4), if:

4 (A) the offense is committed:

5 (i) in a habitation or a shelter center;

6 (ii) on a Superfund site; or

7 (iii) on or in a critical infrastructure
8 facility;

9 (B) the offense is committed on or in property of
10 an institution of higher education and it is shown on the trial of
11 the offense that the person has previously been convicted of:

12 (i) an offense under this section relating
13 to entering or remaining on or in property of an institution of
14 higher education; or

15 (ii) an offense under Section 51.204(b)(1),
16 Education Code, relating to trespassing on the grounds of an
17 institution of higher education;

18 (C) the person carries a deadly weapon during the
19 commission of the offense; or

20 (D) the offense is committed on the property of
21 or within a general residential operation operating as a
22 residential treatment center; and

23 (4) a felony of the third degree if it is shown on the
24 trial of the offense that the defendant committed the offense in the
25 course of committing an offense under Section 20.05(a)(2).

26 SECTION 12. Section 38.04, Penal Code, is amended by adding
27 Subsection (b-1) to read as follows:

1 (b-1) Notwithstanding Subsection (b), an offense under this
2 section is a felony of the third degree if it is shown on the trial
3 of the offense that the actor committed the offense in the course of
4 committing an offense under Section 20.05(a)(2).

5 SECTION 13. The changes in law made by this Act apply only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense was
12 committed before that date.

13 SECTION 14. This Act takes effect October 1, 2023.

ADOPTED
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JUN 08 2023

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FLOOR AMENDMENT NO. *Haley Saw*
Secretary of the Senate

BY: *J. J. Hingji*

1 Amend H.B. No. 2 (senate committee report) as follows:

2 (1) On page 3, line 8, strike "Subsection (b-1)" and
3 substitute "Subsections (b-1) and (b-2)".

4 (2) On page 3, line 11, strike "Subsection (b-1)" and
5 substitute "Subsections (b-1) and (b-2)".

6 (3) On page 3, between lines 56 and 57, insert the following:

7 (b-2) At the punishment stage of a trial of an offense under
8 this section, other than an offense punishable under Subsection
9 (b) (1) (A), (C), or (D) or (b) (2), the actor may raise the issue as
10 to whether the actor is related to the smuggled individual in the
11 third degree of consanguinity or, at the time of the offense, in
12 the third degree of affinity. If the actor proves the issue in the
13 affirmative by a preponderance of the evidence, the offense is a
14 felony of the third degree with a minimum term of imprisonment of
15 five years.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 1st CALLED SESSION 2023

June 8, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Passed 2nd House**

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 under certain conditions. 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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 1st CALLED SESSION 2023

June 6, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2 by Guillen (relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **Committee Report 2nd House, Substituted**

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

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

LBB Staff: JMc, DDel, LBO, ESch, CMA, SMAT, DGI

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: HB2 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Engrossed**

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 under certain conditions. 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.

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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

LBB Staff: JMc, DDel, LBO, ESch, CMA, SMAT, DGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 1st CALLED SESSION 2023

May 30, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2 by Guillen (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

LBB Staff: JMc, CMA, LBO, ESch, SMAT, DDel, DGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATURE 1st CALLED SESSION 2023

June 6, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2 by Guillen (relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **Committee Report 2nd House, Substituted**

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 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.

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.

In fiscal year 2022, there were 6,599 individuals arrested, 202 individuals placed on adult community supervision, and 150 individuals admitted to an adult state correctional institution for felony smuggling of persons and continuous smuggling of persons offenses which would be subject to a minimum ten year term of imprisonment under the bill's provisions. There were 116 individuals arrested and 1 individual placed on adult community supervision for the offense of operation of a stash house which would be punishable as a third degree felony with a minimum five year term of imprisonment under the bill's provisions.

In fiscal year 2022, there were 106,193 individuals arrested, 12,517 individuals placed on adult community supervision, 8,855 individuals placed on juvenile community supervision, 1,331 individuals admitted to an adult state correctional institution, and 98 individuals admitted to a juvenile state correctional institution for an offense that may have been eligible for an increased penalty under the bill's provisions. However, it is unknown how many of these cases included conduct eligible for an increased penalty under the bill's provisions.

The impact on state correctional populations or on the demand for state correctional resources 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.

Source

Agencies:

LBB Staff: JMc, DDel, CMA, ESch, LBO, DGI, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

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: HB2 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Engrossed**

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 under certain conditions. 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 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.

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In fiscal year 2022, there were 106,193 individuals arrested, 12,517 individuals placed on adult community supervision, 8,855 individuals placed on juvenile community supervision, 1,331 individuals admitted to an adult state correctional institution, and 98 individuals admitted to a juvenile state correctional institution for an offense that may have been eligible for an increased penalty under the bill's provisions. However, it is unknown how many of these cases included conduct eligible for an increased penalty under the bill's provisions.

The impact on state correctional populations or on the demand for state correctional resources 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.

Source

Agencies:

LBB Staff: JMc, DDel, LBO, ESch, CMA, DGI, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATURE 1st CALLED SESSION 2023

May 30, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2 by Guillen (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**

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 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.

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The impact on state correctional populations or on the demand for state correctional resources 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.

Source

Agencies:

LBB Staff: JMc, CMA, LBO, ESch, DDel, DGI, SMAT

