

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 3rd CALLED SESSION 2023

November 1, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4 by Spiller (relating to the creation of the criminal offense of improper entry from a foreign nation and indemnification of certain claims relating to the enforcement of that offense.), **Committee Report 2nd House, Substituted**

Creating a new criminal offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would create the Class B misdemeanor offense of improper entry from a foreign nation. The penalty would be increased ranging from a state jail felony to a first degree felony in cases with certain previous convictions. The bill would require a law enforcement officer of the Department of Public Safety who arrests a person for such an offense, to the extent feasible, to detain the person in a facility established under Operation Lone Star or a similar border security operation of this state. The bill would make a defendant charged with or convicted of such an offense ineligible for community supervision and would make an inmate serving a sentence for such an offense ineligible for mandatory supervision or parole. On conviction of such an offense, the bill would require a judge to enter in the judgment in the case an order requiring that the person be returned to federal authorities at the nearest port of entry for return to the person's country of origin or the foreign nation from which the person entered or attempted to enter. The bill would make such an order take effect on completion of a term of confinement or imprisonment imposed by the judgment and would require the order to include the manner of transportation of the person and the state agency responsible for transporting the person and monitoring compliance with the order. The bill would establish provisions for indemnification of certain claims relating to the enforcement of the offense.

The Office of Court Administration (OCA) and the Comptroller of Public Accounts both indicate that the fiscal impact cannot be determined. OCA further indicates the possibility of increased demands on border county courts that could require additional funding to support indigent defense in those counties and to create one or more county courts-at-law.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, creating a new criminal offense may result in additional demands on local prosecutorial and correctional resources due to a possible increase in the number of individuals 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, SD