

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATURE 4th CALLED SESSION 2023

November 9, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4 by Spiller (Relating to prohibitions on the illegal entry into or illegal presence in this state by a person who is an alien, the enforcement of those prohibitions and certain related orders, including immunity from liability and indemnification for enforcement actions, and authorizing or requiring under certain circumstances the removal of persons who violate those prohibitions; creating criminal offenses.), **As Introduced**

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 misdemeanor offenses for illegal entry from a foreign nation and illegal reentry by certain aliens. The penalties would be increased ranging from a state jail felony to a second degree felony in cases with certain previous convictions or under certain conditions. Under certain conditions, the bill would authorize a magistrate or judge, in lieu of continuing the prosecution of or entering an adjudication regarding such an offense, to dismiss the pending charge and issue a written order that discharges the person and requires the person to return to the foreign nation from which the person entered or attempted to enter. On conviction of such an offense, the bill would require a judge to enter in the judgment in the case an order requiring the person to return to the foreign nation from which the person entered or attempted to enter upon completion of a term of confinement or imprisonment imposed by the judgment. The bill would require such orders to include the manner of transportation of the person to a port of entry and the law enforcement officer or state agency responsible for monitoring compliance with the order. The bill would make it a second degree felony if the person refuses to comply with such an order. The bill would prohibit enforcement of the criminal offenses outlined in the bill's provisions on certain premises or grounds and would establish provisions relating to the liability for and indemnification of certain claims relating to the enforcement of such offenses. The bill would make a defendant charged with or convicted of an offense outlined in the bill's provisions ineligible for community supervision and would make an inmate serving a sentence for illegal reentry or refusal to comply with an order outlined in the bill's provisions ineligible for mandatory supervision or parole.

The Office of Court Administration (OCA) indicates that the fiscal impact cannot be determined but anticipates 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. According to OCA, expenses could include additional visiting judges and interpreters to conduct magistration hearings, with each visiting judge costing \$620 per day and interpreters costing \$118 per hour. OCA further reports that indigent defense costs under Operation Lone Star, without appeals, have averaged \$900 per misdemeanor case and \$2,500 per felony case.

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. For context, according to OCA, each year a county court-at-law costs a county approximately \$1.0 million and can handle 1,843 misdemeanors and a district court-at-law costs a county approximately \$750,000 and can handle 1,548 felonies.

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

LBB Staff: JMc, CMA, LBO, DGI