

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 25, 2023**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB800** 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**

Creating a new criminal offense, expanding the conduct constituting an existing offense, and 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 a criminal penalty under the provisions of the bill.

The bill would increase the minimum term of imprisonment to 10 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 5 years under certain conditions. The bill would expand the conduct constituting the felony offense of smuggling of persons to include knowingly assisting, guiding, or directing two or more individuals to enter or remain on a cultural resource site or area, natural area, open space area, or park without the effective consent of the owner.

The bill would increase the minimum term of imprisonment to 5 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 10 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 15 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 bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and increased to a second or first degree felony in the case of certain previous felony convictions. The bill would require a DPS law enforcement officer 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.

While 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 a criminal penalty under the provisions of the bill, it 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, creating a new criminal offense, expanding the conduct constituting an existing offense, and 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, DDeI, LBO, ESch, DGI, SMAT