

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 15, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4635 by Guillen (Relating to organized crime, racketeering activities, and collection of unlawful debts; providing a civil penalty; creating criminal offenses.), **As Engrossed**

The fiscal implications of the bill cannot be determined because the number of criminal cases and civil actions and the amount of revenues resulting from criminal offenses and seizures cannot be estimated.

Although this bill would not make an appropriation, it would establish the basis for an appropriation.

The bill would create civil remedies and enforcement actions related to racketeering and unlawful debt collection offenses created by the bill.

The bill would allow the Attorney General, the Department of Public Safety, or a local prosecutor to bring a civil action to enjoin, among other civil remedies, conduct constituting an offense under the bill. The bill would require the administrative judge of the district court of a county to assign a judge to hear and determine the civil action in an expedited manner. The bill would also allow a prosecutor to bring the proceedings in the county where the property was seized.

The bill would allow the Attorney General or prosecutor to make a civil investigative demand for certain evidence or information before filing a civil action or proceeding. The bill would provide certain procedures and requirements related to the investigation. The bill would also create an uncategorized misdemeanor offense resulting from a person's noncompliance of not more than \$5,000.

The bill would outline the distribution of proceeds resulting from the seizure of real property, or other benefits, acquired by entities involved in racketeering or unlawful debt collection. After distributions to courts that incurred fees, injured parties, and other claimants, 25.0 percent of the remaining amount would be allocated to the fund of the original filing office, 25.0 percent would be distributed to the law enforcement trust fund, and the remaining 50.0 percent would be allocated to General Revenue.

The bill would create a Class B misdemeanor for a trustee's failure to provide certain information to an investigative agency that has filed a Racketeer Influenced and Corrupt Organizations (RICO) lien notice, civil action, or criminal offense under the bill. Additionally, the bill would create three felony offenses related to the use of proceeds derived from racketeering or unlawful debt collection, the acquisition of an interest in property or control of an enterprise through racketeering or unlawful debt collection, or the participation in an enterprise through racketeering or unlawful debt collection. Each felony offense would be classified as a second-degree felony and would carry an alternative, optional fine under certain circumstances. The bill would establish a statute of limitation for filing a felony indictment for the offenses.

Based on the analysis of Office of Court Administration (OCA) and the Comptroller of Public Accounts, the amount of revenue collected from felony offenses and seizures cannot be determined.

Based on information provided by the OCA and the Office of the Attorney General, the number and complexity of cases that would be realized due to the civil actions and three new felony offenses that would be established by the bill cannot be determined.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data to identify the number of cases that would qualify as an offense of engaging in organized criminal activity or to estimate the prevalence of the conduct constituting the new offenses related to racketeering and unlawful debt collection under the bill's provisions.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, creating a new offenses and expanding the conduct constituting and modifying 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. In addition, the amount of revenue collected as a result of the misdemeanor offense and from fines imposed and collected as a result of the bill cannot be determined.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety

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