

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 22, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1427 by Flores (Relating to certain criminal conduct and organizations that threaten the security of this state and its residents and borders; increasing criminal penalties.), **As Introduced**

Expanding the conduct constituting and modifying 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 placed under supervision in the community or sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data to identify the number of additional cases that would qualify as an offense of engaging in organized criminal activity under the provisions of the bill or be subject to a penalty enhancement when the offense is committed in a disaster or evacuated area.

The bill would provide for increased punishment at the next highest category of offense, or a fifteen year minimum term of imprisonment in the case of a first degree felony, when a smuggling of persons or operation of a stash house offense is committed in a disaster or evacuated area. The bill would expand the applicability of certain offenses relating to engaging in organized criminal activity to include a foreign terrorist organization and expand the conduct constituting the offense to include the unlawful possession with the intent to deliver a controlled substance or dangerous drug and operation of a stash house. The impact on state correctional populations or on the demand for state correctional resources related to these increased penalties and expanded conduct constituting an offense cannot be determined due to the lack of data to identify the number of additional cases that would qualify as an offense of engaging in organized criminal activity under the provisions of the bill or be subject to a penalty enhancement when the offense is committed in a disaster or evacuated area.

The bill would increase to ten years the minimum term of imprisonment for certain felony smuggling of persons and continuous smuggling of persons offenses. The bill would increase the penalty for the operation of a stash house to a third degree felony. 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. In addition, the length of stay for this estimate is based on the minimum term of imprisonment of ten years outlined in the bill's provisions. The impact on state correctional populations related to the increased minimum term of confinement is assumed to 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.

The bill would define and specify foreign terrorist organizations that engage in certain activities as a public nuisance and make them and their members susceptible to the same court actions and lawsuits to which criminal street gangs are susceptible under current law. The bill would add foreign terrorist organizations to the Office of the Attorney General's (OAG) gang resource system to provide criminal justice agencies and juvenile justice agencies with information. OAG indicates that there will be no significant fiscal impact to the agency.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, 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.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 312 Securities Board

LBB Staff: JMc, DDeI, LBO, DGI