



LEGISLATIVE BUDGET BOARD

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MEMORANDUM

TO: Lt. Governor Dan Patrick
Senator Jane Nelson
Senator John Whitmire
Speaker Dennis Bonnen
Representative Giovanni Capriglione
Representative James White
Representative Nicole Collier

FROM: Susannah Paul, Analyst
Criminal Justice Data Analysis Team

DATE: December 1, 2020

SUBJECT: HB 2086 Annual Criminal Justice Policy Impact Statement

House Bill 2086, Eighty-first Legislature, Regular Session, 2009, directed the Legislative Budget Board to prepare an annual criminal justice policy impact statement related to the bill's provisions. The bill amended various statutes. The requirements of the annual criminal justice policy impact statement primarily relate to changes in the Penal Code.

The bill expands the offenses which may be considered as Engaging in Organized Criminal Activity and enhances penalties for the offense of Criminal Solicitation of a Minor in certain instances. The bill also creates and defines the offense of Directing Activities of Certain Criminal Street Gangs. In addition to these Penal Code amendments, the bill allows certain civil actions to be taken against criminal street gangs.

During April 2020, the Texas Department of Criminal Justice (TDCJ) temporarily suspended the transfer of individuals into state custody as part of their efforts to stem and contain the spread of COVID-19. Transfers resumed during July 2020. As a result, there was a decrease in the number of individuals admitted to prison or state jail in fiscal year 2020. The long-term effects of COVID-19 on the criminal justice system and its populations are still not known.

Based on fiscal year 2020 arrest and incarceration data provided by TDCJ and the Department of Public Safety, the probable impact on criminal justice populations as a result of implementing the bill cannot be determined because the data or information providing the level of detail necessary to analyze the bill's amendments to certain Penal Code statutes are not available at the statewide level. This detail includes the location of the offenses (e.g., within 1,000 feet of a playground, shopping mall, etc.). This missing detail prevents some of the analysis of persons affected by this bill.

In fiscal year 2020, approximately 5,914 individuals were arrested for escape, introducing or providing implements for escape, prohibited substances and items in a correctional facility, engaging in organized criminal activity, or directing activities of certain criminal street gangs (32.7% White; 29.0% Black; 37.1% Hispanic; 1.2% Other). Of those received into state correctional institutions in fiscal year 2020, 279 individuals were admitted to prison (33.7% White; 36.6% Black; 29.0% Hispanic; 0.7% Other) and 35 were admitted to state jail (31.4% White; 42.9% Black; 25.7% Hispanic) for escape, introducing or providing implements for escape, prohibited substances and items in a correctional facility, or engaging in organized criminal activity. Due to the effects of the COVID-19 pandemic, the number of individuals received into prison and state jail decreased significantly in fiscal year 2020. It is unknown whether anyone engaging in organized criminal activity would appear to have committed the offense of escape, permitting or facilitating escape, implements for escape, or prohibited substances and items in correctional facility attributable to the aforementioned arrests and/or incarcerations. In fiscal year 2020, fewer than ten individuals were arrested and fewer than ten individuals were admitted to TDCJ for directing activities of certain criminal street gangs as defined by the provisions of the bill. Data regarding civil action damages and asset forfeiture or seizure are not available to the LBB staff.

Although data limitations prevent a complete assessment as required by the bill for the annual criminal justice policy impact statement, no significant fiscal impact or significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies based on the information available is anticipated.

Please contact our office if you have any comments or questions concerning this annual criminal justice policy impact statement or would like more information.

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