



LEGISLATIVE BUDGET BOARD

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M E M O R A N D U M

TO: Lt. Governor David Dewhurst Speaker Joe Straus
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Senator Rodney Ellis

FROM: Adriana Marin, Analyst
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DATE: December 1, 2011

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 statute in various areas of criminal justice, but 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.

Based on fiscal year 2011 arrest and disposition data provided by the Texas Department of Criminal Justice and the Department of Public Safety, the probable impact on criminal justice populations as a result of implementing the bill cannot be determined due to the unavailability of reliable data or information providing the level of detail necessary to analyze the bill's amendments to certain Penal Code statutes. Also, the detail needed to separate the bill's specific amendments from broader offense categories is not available, which prevents analysis of the race and ethnicity of persons affected by this bill.

In fiscal year 2011, approximately 1,950 individuals were arrested for escape, permitting or facilitating escape, introducing or providing implements for escape, and prohibited substances and items in correctional facility (72.6% of White race and 26.5% of Black race; 33.4% of Hispanic ethnicity). Of those arrested in fiscal year 2011, approximately 185 were admitted to prison (69.9% of White race and 30.1% of Black race; 30.6% of Hispanic ethnicity) and approximately 70 were admitted to state jail (70.4% of White race and 29.6% of Black race; 29.6% of Hispanic ethnicity). 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, convictions, and incarcerations. In fiscal year 2011, less than 5 individuals were arrested, and less than 5 were admitted to prison for directing activities of certain criminal street gangs, as defined by the bill. Data regarding civil action damages and asset forfeiture or seizure are not available to the LBB.

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 is anticipated based on the information available.

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