



LEGISLATIVE BUDGET BOARD

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MEMORANDUM

TO: Lt. Governor Dan Patrick
Senator Jane Nelson
Senator John Whitmire
Senator Rodney Ellis
Speaker Joe Straus
Representative John Otto
Representative Jim Murphy
Representative Joe Moody

FROM: John Posey, Analyst
Laurie Molina, Manager
Criminal Justice Data Analysis Team

DATE: December 1, 2016

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.

Based on fiscal year 2016 arrest and incarceration 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. 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 2016, approximately 6,213 individuals were arrested for escape, permitting or facilitating escape, introducing or providing implements for escape, or prohibited substances and items in a correctional facility (34.4% White; 25.1% Black; 39.0% Hispanic; 1.5% Other). In fiscal year 2016, a total of 444 were admitted to prison (41.7% White; 31.5% Black; 26.8% Hispanic; 0.0% Other) and 48 were admitted to state jail (31.3% White; 50.0% Black; 18.8% Hispanic; 0.0% Other). Due to the data limitations discussed above, 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 2016, fewer than ten individuals were arrested and fewer than five individuals were admitted to prison 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.

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.

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