



## LEGISLATIVE BUDGET BOARD

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### MEMORANDUM

**TO:** Lt. Governor Dan Patrick  
Senator Jane Nelson  
Senator John Whitmire  
Speaker Dade Phelan  
Representative Greg Bonnen  
Representative Andrew Murr  
Representative Nicole Collier

**FROM:** David Gillian, Analyst  
Data Analysis and Reporting Team

**DATE:** November 30, 2021

**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 2021 arrest and incarceration data provided by the Department of Public Safety and the Texas Department of Criminal Justice (TDCJ), 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.

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In fiscal year 2021, 5,414 individuals were arrested for escape, permitting or facilitating escape, prohibited substances and items in a correctional facility, or engaging in organized criminal activity (35.3% White; 26.8% Black; 36.9% Hispanic; 0.9% Other). Of those received into state correctional institutions in fiscal year 2021, 311 individuals were admitted to prison (39.5% White; 25.1% Black; 35.4% Hispanic) and 15 were admitted to state jail (33.3% White; 46.7% Black; 20.0% Hispanic) 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 years 2020 and 2021. It is unknown whether any of the aforementioned arrests and/or incarcerations for the offenses of escape, permitting or facilitating escape, or prohibited substances and items in a correctional facility were committed by individuals in the course of engaging in organized criminal activity. In fiscal year 2021, 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 the associated 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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