

Chapter 739

S.B. No. 1232

AN ACT

relating to inappropriate conduct between a person and an animal;
creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.07(a), Penal Code, is amended to read
as follows:

(a) A person commits an offense if the person [~~he~~] knowingly
engages in any of the following acts in a public place or, if not in
a public place, the person [~~he~~] is reckless about whether another is
present who will be offended or alarmed by the person's [~~his~~]:

- (1) act of sexual intercourse;
- (2) act of deviate sexual intercourse; or
- (3) act of sexual contact [~~, or~~
- ~~[(4) act involving contact between the person's mouth~~
- ~~or genitals and the anus or genitals of an animal or fowl].~~

SECTION 2. Chapter 21, Penal Code, is amended by adding
Section 21.09 to read as follows:

Sec. 21.09. BESTIALITY. (a) A person commits an offense
if the person knowingly:

- (1) engages in an act involving contact between:
 - (A) the person's mouth, anus, or genitals and the
 - anus or genitals of an animal; or
 - (B) the person's anus or genitals and the mouth
 - of the animal;

- 1 (2) fondles or touches the anus or genitals of an
2 animal in a manner that is not a generally accepted and otherwise
3 lawful animal husbandry or veterinary practice, including touching
4 through clothing;
- 5 (3) causes an animal to contact the seminal fluid of
6 the person;
- 7 (4) inserts any part of a person's body or any object
8 into the anus or genitals of an animal in a manner that is not a
9 generally accepted and otherwise lawful animal husbandry or
10 veterinary practice;
- 11 (5) possesses, sells, transfers, purchases, or
12 otherwise obtains an animal with the intent that the animal be used
13 for conduct described by Subdivision (1), (2), (3), or (4);
- 14 (6) organizes, promotes, conducts, or participates as
15 an observer of conduct described by Subdivision (1), (2), (3), or
16 (4);
- 17 (7) causes a person to engage or aids a person in
18 engaging in conduct described by Subdivision (1), (2), (3), or (4);
- 19 (8) permits conduct described by Subdivision (1), (2),
20 (3), or (4) to occur on any premises under the person's control;
- 21 (9) engages in conduct described by Subdivision (1),
22 (2), (3), or (4) in the presence of a child younger than 18 years of
23 age; or
- 24 (10) advertises, offers, or accepts the offer of an
25 animal with the intent that the animal be used in this state for
26 conduct described by Subdivision (1), (2), (3), or (4).
- 27 (b) An offense under this section is a state jail felony,

1 unless the offense is committed under Subsection (a)(9) or results
2 in serious bodily injury or death of the animal, in which event the
3 offense is a felony of the second degree.

4 (c) It is an exception to the application of this section
5 that the conduct engaged in by the actor is a generally accepted and
6 otherwise lawful animal husbandry or veterinary practice.

7 SECTION 3. Section 42.092, Penal Code, is amended by
8 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
9 read as follows:

10 (c) An offense under Subsection (b)(3), (4), (5), (6), or
11 (9) is a Class A misdemeanor, except that the offense is a state
12 jail felony if the person has previously been convicted two times
13 under this section, two times under Section 42.09, or one time under
14 this section and one time under Section 42.09.

15 (c-1) An offense under Subsection (b)(1) or~~(7)~~ (2) is a
16 felony of the third degree, except that the offense is a felony of
17 the second degree if the person has previously been convicted under
18 Subsection (b)(1), (2), (7), or (8) or under Section 42.09.

19 (c-2) An offense under Subsection (b)(7)~~(7)~~ or (8) is a
20 state jail felony, except that the offense is a felony of the third
21 degree if the person has previously been convicted [~~two times~~]
22 under this section~~[, two times under Section 42.09,]~~ or [~~one time~~
23 under this section and one time] under Section 42.09.

24 SECTION 4. Article 42A.511, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 42A.511. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES
27 INVOLVING ANIMALS. (a) If a judge grants community supervision to

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1 a defendant convicted of an offense under Section 42.09, 42.091,
2 42.092, or 42.10, Penal Code, the judge may require the defendant to
3 attend a responsible pet owner course sponsored by a municipal
4 animal shelter, as defined by Section 823.001, Health and Safety
5 Code, that:

- 6 (1) receives federal, state, county, or municipal
- 7 funds; and
- 8 (2) serves the county in which the court is located.

9 (b) If a judge grants community supervision to a defendant
10 convicted of an offense under Section 21.09, Penal Code, the judge
11 may:

- 12 (1) require the defendant to relinquish custody of any
- 13 animals in the defendant's possession;
- 14 (2) prohibit the defendant from possessing or
- 15 exercising control over any animals or residing in a household
- 16 where animals are present; or
- 17 (3) require the defendant to participate in a
- 18 psychological counseling or other appropriate treatment program
- 19 for a period to be determined by the court.

20 SECTION 5. Article 62.001(5), Code of Criminal Procedure,
21 is amended to read as follows:

22 (5) "Reportable conviction or adjudication" means a
23 conviction or adjudication, including an adjudication of
24 delinquent conduct or a deferred adjudication, that, regardless of
25 the pendency of an appeal, is a conviction for or an adjudication
26 for or based on:

- 27 (A) a violation of Section 21.02 (Continuous

1 sexual abuse of young child or children), 21.09 (Bestiality), 21.11
2 (Indecency with a child), 22.011 (Sexual assault), 22.021
3 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
4 Penal Code;

5 (B) a violation of Section 43.05 (Compelling
6 prostitution), 43.25 (Sexual performance by a child), or 43.26
7 (Possession or promotion of child pornography), Penal Code;

8 (B-1) a violation of Section 43.02
9 (Prostitution), Penal Code, if the offense is punishable under
10 Subsection (c)(3) of that section;

11 (C) a violation of Section 20.04(a)(4)
12 (Aggravated kidnapping), Penal Code, if the actor committed the
13 offense or engaged in the conduct with intent to violate or abuse
14 the victim sexually;

15 (D) a violation of Section 30.02 (Burglary),
16 Penal Code, if the offense or conduct is punishable under
17 Subsection (d) of that section and the actor committed the offense
18 or engaged in the conduct with intent to commit a felony listed in
19 Paragraph (A) or (C);

20 (E) a violation of Section 20.02 (Unlawful
21 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
22 Penal Code, if, as applicable:

23 (i) the judgment in the case contains an
24 affirmative finding under Article 42.015; or

25 (ii) the order in the hearing or the papers
26 in the case contain an affirmative finding that the victim or
27 intended victim was younger than 17 years of age;

1 (F) the second violation of Section 21.08
2 (Indecent exposure), Penal Code, but not if the second violation
3 results in a deferred adjudication;

4 (G) an attempt, conspiracy, or solicitation, as
5 defined by Chapter 15, Penal Code, to commit an offense or engage in
6 conduct listed in Paragraph (A), (B), (C), (D), (E), or (K);

7 (H) a violation of the laws of another state,
8 federal law, the laws of a foreign country, or the Uniform Code of
9 Military Justice for or based on the violation of an offense
10 containing elements that are substantially similar to the elements
11 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
12 (G), (J), or (K), but not if the violation results in a deferred
13 adjudication;

14 (I) the second violation of the laws of another
15 state, federal law, the laws of a foreign country, or the Uniform
16 Code of Military Justice for or based on the violation of an offense
17 containing elements that are substantially similar to the elements
18 of the offense of indecent exposure, but not if the second violation
19 results in a deferred adjudication;

20 (J) a violation of Section 33.021 (Online
21 solicitation of a minor), Penal Code; or

22 (K) a violation of Section 20A.02(a)(3), (4),
23 (7), or (8) (Trafficking of persons), Penal Code.

24 SECTION 6. Section 821.021(1), Health and Safety Code, is
25 amended to read as follows:

26 (1) "Cruelly treated" includes tortured, seriously
27 overworked, unreasonably abandoned, unreasonably deprived of

1 necessary food, care, or shelter, cruelly confined, [~~or~~] caused to
2 fight with another animal, or subjected to conduct prohibited by
3 Section 21.09, Penal Code.

4 SECTION 7. Section 821.023, Health and Safety Code, is
5 amended by adding Subsection (a-1) to read as follows:

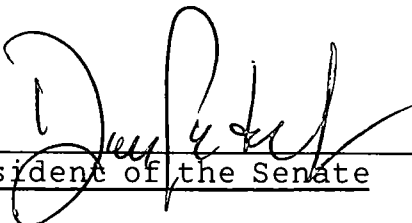
6 (a-1) A finding in a court of competent jurisdiction that a
7 person is guilty of an offense under Section 21.09, Penal Code, is
8 prima facie evidence at a hearing authorized by Section 821.022
9 that any animal in the person's possession has been cruelly
10 treated, regardless of whether the animal was subjected to conduct
11 prohibited by Section 21.09, Penal Code.

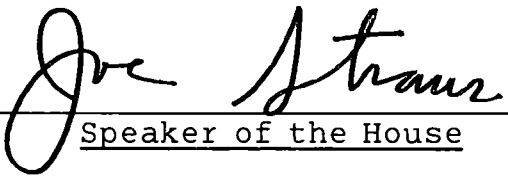
12 SECTION 8. Section 821.023(b), Health and Safety Code, is
13 repealed.

14 SECTION 9. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 governed by the law in effect on the date the offense was committed,
18 and the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before the
20 effective date of this Act if any element of the offense occurred
21 before that date.

22 SECTION 10. This Act takes effect September 1, 2017.

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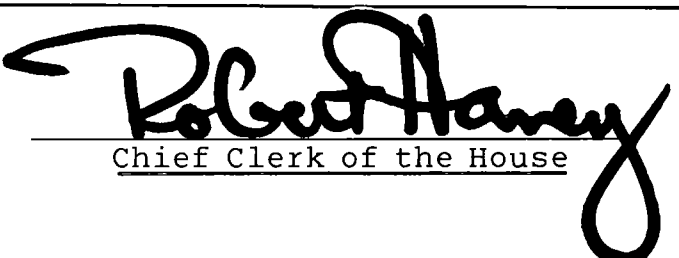

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 1232 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2017, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

I hereby certify that S.B. No. 1232 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 141, Nays 0, one present not voting.



Chief Clerk of the House

Approved:

6 - 9 - 2017
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30 PM O'CLOCK

JUN 12 2017

Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to inappropriate conduct between a person and an animal; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code, Code of Criminal Procedure, and Health and Safety Code, as they relate to inappropriate conduct between a person and an animal, and the prosecution of offenses involving cruelty to animals. Under the provisions of the bill, inappropriate conduct between a person and an animal would be punishable by a state jail or a second degree felony depending upon the specific circumstances of the offense. The bill would also reduce the number of previous convictions necessary for penalty enhancement for certain acts of animal cruelty.

The Office of Court Administration and the Texas Department of Criminal Justice do not anticipate a significant fiscal impact. This analysis assumes the provisions of the bill would not result in a significant impact on the demand for state correctional resources.

The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, KJo, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 8, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (relating to inappropriate conduct between a person and an animal; creating a criminal offense.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend sections of the Penal Code, Code of Criminal Procedure, and Health and Safety Code, as they relate to the offense of bestiality. Under the provisions of the bill, bestiality would be punishable by a state jail or second degree felony depending on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 6, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to the creation of the offense of bestiality.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by creating the offense of bestiality. Under the provisions of the bill, bestiality would be punishable by a state jail or third degree felony depending on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KJo, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 6, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (relating to the creation of the offense of bestiality.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by creating the offense of bestiality. Under the provisions of the bill, bestiality would be punishable as a state jail or third degree felony depending on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate the provisions of the bill could be implemented within existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to the creation of the offense of bestiality.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by creating the offense of bestiality. Under the provisions of the bill, bestiality would be punishable as a state jail or second degree felony depending on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate the provisions of the bill could be implemented within existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demands for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, KJo, LM, ZB

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to inappropriate conduct between a person and an animal; creating a criminal offense.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to inappropriate conduct between a person and an animal, and the prosecution of offenses involving cruelty to animals. Under the provisions of the bill, inappropriate conduct between a person and an animal would be punishable by a state jail or second degree felony depending upon the specific circumstances of the offense. The bill would also reduce the number of previous convictions necessary for penalty enhancement for certain acts of animal cruelty. The punishment for certain acts of animal cruelty would be punishable under various felony punishment levels with the specific punishment based on the circumstances of the offense. A second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. Reducing the number of previous convictions required for penalty enhancement is expected to result in greater demands on the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, 149 individuals were arrested, 43 were placed under felony community supervision, and 22 were admitted into state correctional institutions for offenses related to certain acts of animal cruelty under existing statute. After reviewing the previous conviction history for those individuals placed under felony community supervision or admitted into state correctional institutions for certain acts of animal cruelty, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 8, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (relating to inappropriate conduct between a person and an animal; creating a criminal offense.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend sections of the Penal Code, Code of Criminal Procedure, and Health and Safety Code, as they relate to the offense of bestiality. The bill would make engaging in certain conduct with an animal a criminal offense. Under the provisions of the bill, bestiality would be punishable by a state jail felony or a second degree felony depending on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. However, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 6, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to the creation of the offense of bestiality.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend sections of the Penal Code as it relates to the offense of bestiality. Under the provisions of the bill, bestiality would be punishable by a state jail or third degree felony depending on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. However, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 6, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (relating to the creation of the offense of bestiality.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend sections of the Penal Code as it relates to the offense of bestiality. Under the provisions of the bill, bestiality would be punishable as a state jail or third degree felony depending on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands upon the correctional resources of counties or of the State due to a potential increase in the number of individuals sentenced to a term of supervision in the community or a term of confinement within state correctional institutions. However, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1232 by Huffman (Relating to the creation of the offense of bestiality.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend sections of the Penal Code as it relates to the offense of bestiality. Under the provisions of the bill, bestiality would be punishable as a state jail or second degree felony depending on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, all felony level offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands upon the correctional resources of counties or of the State due to a potential increase in the number of individuals sentenced to a term of supervision in the community or a term of confinement within state correctional institutions. However, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB