

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 70 amends Section 30-42-3, the definitions section of the Racketeering Act, to add the following 11 crimes to the existing 26 that can be charged under the Act:

- sexual exploitation of children;
- criminal sexual penetration;
- criminal sexual contact;
- dog fighting and cockfighting;
- escape from jail;
- escape from penitentiary;
- assisting escape;
- bringing contraband into places of imprisonment;
- tampering with public records;
- impersonating a peace officer; and
- human trafficking.

SB 70 also adds a definition of "criminal gang" to the Act. A "criminal gang" is defined as "three or more persons having a common identifying sign or symbol or an identifiable leadership and who continuously or regularly associate in the commission of criminal activities." "Criminal gang" is also added to the list of entities who can be considered in the definition of an "enterprise" under the Act.

Additionally, SB 70 adds two new subsections to Section 30-42-4, the section of the Act that concerns activities prohibited under the Act. The first of these new subsections would make it unlawful for a person to solicit or coerce another person, including a minor, into becoming or continuing as a member of an enterprise or participating in the racketeering activity of an enterprise. The penalty is a third degree felony. The second new subsection makes it unlawful for a person who is in a leadership position within an enterprise to knowingly finance, supervise or conspire to commit, through the direction of members of the enterprise, any racketeering activity. This penalty is a first degree felony.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The statutory purpose of the Racketeering Act (Section 30-42-2) is “to eliminate the infiltration and illegal acquisition of legitimate economic enterprise by racketeering practices and the use of legal and illegal enterprises to further criminal activities.” It is not clear that the additional crimes contemplated for the Act by SB 70 correspond with the purpose of the Act.

Similarly, adding “criminal gang”, as defined in SB 70, into the definition of “enterprise” is an awkward fit. The other enterprises in the definition are “a sole proprietorship, partnership, corporation, business, labor union, association or other legal entity or a group of individuals.” A group defined in the bill as “three or more persons having a common identifying sign or symbol or an identifiable leadership and who continuously or regularly associate in the commission of criminal activities” is a different sort of beast.

It is difficult to determine what the effect of passing SB 70 would be on the state’s prison population, but the increased crimes that could be considered racketeering and the penalties included in the bill could lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state’s prison system is \$156.45/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS