

By: Allison

H.B. No. 1316

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution and punishment of certain criminal
3 offenses involving the smuggling of persons or the operation of a
4 stash house; increasing criminal penalties.

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

6 SECTION 1. Sections 20.05(a), (b), and (c), Penal Code, are
7 amended to read as follows:

8 (a) A person commits an offense if the person knowingly:

9 (1) uses a motor vehicle, aircraft, watercraft, or
10 other means of conveyance to transport an individual with the
11 intent to:

12 (A) conceal the individual from a peace officer
13 or special investigator; or

14 (B) flee from a person the actor knows is a peace
15 officer or special investigator attempting to lawfully arrest or
16 detain the actor;

17 (2) encourages or induces a person to enter or remain
18 in this country in violation of federal law by concealing,
19 harboring, or shielding that person from detection; or

20 (3) assists, guides, or directs two or more
21 individuals to enter or remain:

22 (A) in this country in violation of federal law;

23 or

24 (B) on agricultural land without the effective

1 consent of the owner.

2 (b) An offense under this section is a felony of the first
3 [~~third~~] degree [~~, except that the offense is:~~

4 [~~(1) a felony of the second degree if:~~

5 [~~(A) the actor commits the offense in a manner~~
6 ~~that creates a substantial likelihood that the smuggled individual~~
7 ~~will suffer serious bodily injury or death;~~

8 [~~(B) the smuggled individual is a child younger~~
9 ~~than 18 years of age at the time of the offense;~~

10 [~~(C) the offense was committed with the intent to~~
11 ~~obtain a pecuniary benefit;~~

12 [~~(D) during the commission of the offense the~~
13 ~~actor, another party to the offense, or an individual assisted,~~
14 ~~guided, or directed by the actor knowingly possessed a firearm; or~~

15 [~~(E) the actor commits the offense under~~
16 ~~Subsection (a)(1)(B); or~~

17 [~~(2) a felony of the first degree if:~~

18 [~~(A) it is shown on the trial of the offense that,~~
19 ~~as a direct result of the commission of the offense, the smuggled~~
20 ~~individual became a victim of sexual assault, as defined by Section~~
21 ~~22.011, or aggravated sexual assault, as defined by Section 22.021;~~

22 ~~or~~

23 [~~(B) the smuggled individual suffered serious~~
24 ~~bodily injury or death].~~

25 (c) It is an affirmative defense to prosecution of an
26 offense under this section [~~, other than an offense punishable under~~
27 ~~Subsection (b)(1)(A) or (b)(2),~~] that the actor is related to the

1 smuggled individual within the second degree of consanguinity or,
2 at the time of the offense, within the second degree of affinity.
3 The affirmative defense provided by this subsection is not
4 available if:

5 (1) as a direct result of the commission of the
6 offense, the smuggled individual became a victim of sexual assault,
7 as defined by Section 22.011, or aggravated sexual assault, as
8 defined by Section 22.021;

9 (2) the smuggled individual suffered serious bodily
10 injury or death; or

11 (3) the actor committed the offense in a manner that
12 created a substantial likelihood that the smuggled individual would
13 suffer serious bodily injury or death.

14 SECTION 2. Sections 20.06(e) and (f), Penal Code, are
15 amended to read as follows:

16 (e) Except as provided by Subsections (f) and (g), an
17 offense under this section is a felony of the first [~~second~~] degree
18 punishable by imprisonment in the Texas Department of Criminal
19 Justice for life or for any term of not more than 99 years or less
20 than 15 years.

21 (f) An offense under this section is a felony of the first
22 degree, punishable by imprisonment in the Texas Department of
23 Criminal Justice for life or for any term of not more than 99 years
24 or less than 20 years, if:

25 (1) the conduct constituting an offense under Section
26 20.05 is conducted in a manner that creates a substantial
27 likelihood that the smuggled individual will suffer serious bodily

1 injury or death; or

2 (2) the smuggled individual is a child younger than 18
3 years of age at the time of the offense.

4 SECTION 3. Section 20.07(b), Penal Code, is amended to read
5 as follows:

6 (b) An offense under this section is a felony of the first
7 degree [~~Class A misdemeanor~~].

8 SECTION 4. Sections 71.02(a) and (b), Penal Code, are
9 amended to read as follows:

10 (a) A person commits an offense if, with the intent to
11 establish, maintain, or participate in a combination or in the
12 profits of a combination or as a member of a criminal street gang,
13 the person commits or conspires to commit one or more of the
14 following:

15 (1) murder, capital murder, arson, aggravated
16 robbery, robbery, burglary, theft, aggravated kidnapping,
17 kidnapping, aggravated assault, aggravated sexual assault, sexual
18 assault, continuous sexual abuse of young child or disabled
19 individual, solicitation of a minor, forgery, deadly conduct,
20 assault punishable as a Class A misdemeanor, burglary of a motor
21 vehicle, or unauthorized use of a motor vehicle;

22 (2) any gambling offense punishable as a Class A
23 misdemeanor;

24 (3) promotion of prostitution, aggravated promotion
25 of prostitution, or compelling prostitution;

26 (4) unlawful manufacture, transportation, repair, or
27 sale of firearms or prohibited weapons;

1 (5) unlawful manufacture, delivery, dispensation, or
2 distribution of a controlled substance or dangerous drug, or
3 unlawful possession of a controlled substance or dangerous drug
4 through forgery, fraud, misrepresentation, or deception;

5 (5-a) causing the unlawful delivery, dispensation, or
6 distribution of a controlled substance or dangerous drug in
7 violation of Subtitle B, Title 3, Occupations Code;

8 (6) any unlawful wholesale promotion or possession of
9 any obscene material or obscene device with the intent to wholesale
10 promote the same;

11 (7) any offense under Subchapter B, Chapter 43,
12 depicting or involving conduct by or directed toward a child
13 younger than 18 years of age;

14 (8) any felony offense under Chapter 32;

15 (9) any offense under Chapter 36;

16 (10) any offense under Chapter 34, 35, or 35A;

17 (11) any offense under Section 37.11(a);

18 (12) any offense under Chapter 20A;

19 (13) any offense under Section 37.10;

20 (14) any offense under Section 38.06, 38.07, 38.09, or
21 38.11;

22 (15) any offense under Section 42.10;

23 (16) any offense under Section 46.06(a)(1) or 46.14;

24 (17) any offense under Section 20.05, ~~or~~ 20.06, or
25 20.07;

26 (18) any offense under Section 16.02; or

27 (19) any offense classified as a felony under the Tax

1 Code.

2 (b) Except as provided in Subsections (c) and (d), an
3 offense under this section is one category higher than the most
4 serious offense listed in Subsection (a) that was committed, and if
5 the most serious offense is a Class A misdemeanor, the offense is a
6 state jail felony, except that the offense is a felony of the first
7 degree punishable by imprisonment in the Texas Department of
8 Criminal Justice for:

9 (1) life without parole, if the most serious offense
10 is an aggravated sexual assault and if at the time of that offense
11 the defendant is 18 years of age or older and:

12 (A) the victim of the offense is younger than six
13 years of age;

14 (B) the victim of the offense is younger than 14
15 years of age and the actor commits the offense in a manner described
16 by Section 22.021(a)(2)(A); or

17 (C) the victim of the offense is younger than 17
18 years of age and suffered serious bodily injury as a result of the
19 offense;

20 (2) life or for any term of not more than 99 years or
21 less than 30 years if the most serious offense is an offense under
22 Section 20.06 that is punishable under Subsection (g) of that
23 section; ~~or~~

24 (3) life or for any term of not more than 99 years or
25 less than 25 years if the most serious offense is an offense under:

26 (A) Section 20.05 or 20.07; or

27 (B) Section 20.06, other than an offense that is

1 punishable under Subsection (g) of that section; or

2 (4) life or for any term of not more than 99 years or
3 less than 15 years if the most serious offense is an offense
4 punishable as a felony of the first degree, other than an offense
5 described by Subdivision (1), ~~or~~ (2), or (3).

6 SECTION 5. The changes in law made by this Act apply only to
7 an offense committed on or after the effective date of this Act. An
8 offense committed before the effective date of this Act is governed
9 by the law in effect on the date the offense was committed, and the
10 former law is continued in effect for that purpose. For purposes of
11 this section, an offense was committed before the effective date of
12 this Act if any element of the offense was committed before that
13 date.

14 SECTION 6. This Act takes effect September 1, 2023.