

By: Kacal

H.B. No. 3075

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the operation of an unmanned aircraft over a  
3 correctional facility or detention facility; creating a criminal  
4 offense.

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

6 SECTION 1. Chapter 38, Penal Code, is amended by adding  
7 Section 38.115 to read as follows:

8 Sec. 38.115. OPERATION OF UNMANNED AIRCRAFT OVER  
9 CORRECTIONAL FACILITY OR DETENTION FACILITY. (a) In this section:

10 (1) "Contraband" means any item not provided by or  
11 authorized by the operator of a correctional facility or detention  
12 facility.

13 (2) "Correctional facility" means:

14 (A) a confinement facility operated by or under  
15 contract with any division of the Texas Department of Criminal  
16 Justice;

17 (B) a municipal or county jail;

18 (C) a confinement facility operated by or under  
19 contract with the Federal Bureau of Prisons; or

20 (D) a secure correctional facility or secure  
21 detention facility, as defined by Section 51.02, Family Code.

22 (3) "Detention facility" means a facility operated by  
23 or under contract with United States Immigration and Customs  
24 Enforcement for the purpose of detaining aliens and placing them in

1 removal proceedings.

2 (b) A person commits an offense if the person intentionally  
3 or knowingly:

4 (1) operates an unmanned aircraft over a correctional  
5 facility or detention facility and the unmanned aircraft is not  
6 higher than 400 feet above ground level;

7 (2) allows an unmanned aircraft to make contact with a  
8 correctional facility or detention facility, including any person  
9 or object on the premises of or within the facility; or

10 (3) allows an unmanned aircraft to come within a  
11 distance of a correctional facility or detention facility that is  
12 close enough to interfere with the operations of or cause a  
13 disturbance to the facility.

14 (c) It is a defense to prosecution under this section that  
15 the conduct described by Subsection (b) was engaged in by:

16 (1) the federal government, this state, or a  
17 governmental entity;

18 (2) a person under contract with or otherwise acting  
19 under the direction or on behalf of the federal government, this  
20 state, or a governmental entity;

21 (3) a law enforcement agency; or

22 (4) a person under contract with or otherwise acting  
23 under the direction or on behalf of a law enforcement agency.

24 (d) An offense under this section is a Class B misdemeanor,  
25 except that the offense is:

26 (1) a Class A misdemeanor if the actor has previously  
27 been convicted under this section; or

1           (2) a state jail felony if, during the commission of  
2 the offense, the actor used the unmanned aircraft to:

3                   (A) provide contraband to a person in the custody  
4 of the correctional facility or detention facility; or

5                   (B) otherwise introduce contraband into the  
6 correctional facility or detention facility.

7           SECTION 2. The heading to Section 423.0045, Government  
8 Code, is amended to read as follows:

9           Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER  
10 [~~CORRECTIONAL FACILITY, DETENTION FACILITY, OR~~] CRITICAL  
11 INFRASTRUCTURE FACILITY.

12           SECTION 3. Sections 423.0045(b) and (c), Government Code,  
13 are amended to read as follows:

14           (b) A person commits an offense if the person intentionally  
15 or knowingly:

16                   (1) operates an unmanned aircraft over a [~~correctional~~  
17 ~~facility, detention facility, or~~] critical infrastructure facility  
18 and the unmanned aircraft is not higher than 400 feet above ground  
19 level;

20                   (2) allows an unmanned aircraft to make contact with a  
21 [~~correctional facility, detention facility, or~~] critical  
22 infrastructure facility, including any person or object on the  
23 premises of or within the facility; or

24                   (3) allows an unmanned aircraft to come within a  
25 distance of a [~~correctional facility, detention facility, or~~]  
26 critical infrastructure facility that is close enough to interfere  
27 with the operations of or cause a disturbance to the facility.

1 (c) This section does not apply to~~+~~

2 [~~(1)~~] conduct described by Subsection (b) that  
3 [~~involves a correctional facility, detention facility, or critical~~  
4 ~~infrastructure facility and~~] is committed by:

5 (1) [~~(A)~~] the federal government, the state, or a  
6 governmental entity;

7 (2) [~~(B)~~] a person under contract with or otherwise  
8 acting under the direction or on behalf of the federal government,  
9 the state, or a governmental entity;

10 (3) [~~(C)~~] a law enforcement agency;

11 (4) [~~(D)~~] a person under contract with or otherwise  
12 acting under the direction or on behalf of a law enforcement agency;

13 (5) [~~or~~  
14 [~~(E)~~] an operator of an unmanned aircraft that is  
15 being used for a commercial purpose, if the operation is conducted  
16 in compliance with:

17 (A) [~~(i)~~] each applicable Federal Aviation  
18 Administration rule, restriction, or exemption; and

19 (B) [~~(ii)~~] all required Federal Aviation  
20 Administration authorizations;

21 (6) [~~or~~  
22 [~~(2)~~ conduct described by Subsection (b) that involves  
23 a critical infrastructure facility and is committed by:

24 [~~(A)~~] an owner or operator of the critical  
25 infrastructure facility;

26 (7) [~~(B)~~] a person under contract with or otherwise  
27 acting under the direction or on behalf of an owner or operator of

1 the critical infrastructure facility;

2           (8) [~~(C)~~] a person who has the prior written consent  
3 of the owner or operator of the critical infrastructure facility;  
4 or

5           (9) [~~(D)~~] the owner or occupant of the property on  
6 which the critical infrastructure facility is located or a person  
7 who has the prior written consent of the owner or occupant of that  
8 property.

9           SECTION 4. Sections [423.0045](#)(a)(1) and (3), Government  
10 Code, are repealed.

11           SECTION 5. The change in law made by this Act to Section  
12 [423.0045](#), Government Code, applies only to an offense committed on  
13 or after the effective date of this Act. An offense committed  
14 before the effective date of this Act is governed by the law in  
15 effect on the date the offense was committed, and the former law is  
16 continued in effect for that purpose. For purposes of this section,  
17 an offense was committed before the effective date of this Act if  
18 any element of the offense was committed before that date.

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