

1-1 By: Kacal (Senate Sponsor - Flores) H.B. No. 3075  
 1-2 (In the Senate - Received from the House May 1, 2023;  
 1-3 May 2, 2023, read first time and referred to Committee on Criminal  
 1-4 Justice; May 11, 2023, reported favorably by the following vote:  
 1-5 Yeas 6, Nays 0; May 11, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to the operation of an unmanned aircraft over a  
 1-18 correctional facility or detention facility; creating a criminal  
 1-19 offense.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Chapter 38, Penal Code, is amended by adding  
 1-22 Section 38.115 to read as follows:

1-23 Sec. 38.115. OPERATION OF UNMANNED AIRCRAFT OVER  
 1-24 CORRECTIONAL FACILITY OR DETENTION FACILITY. (a) In this section:

1-25 (1) "Contraband" means any item not provided by or  
 1-26 authorized by the operator of a correctional facility or detention  
 1-27 facility.

1-28 (2) "Correctional facility" means:

1-29 (A) a confinement facility operated by or under  
 1-30 contract with any division of the Texas Department of Criminal  
 1-31 Justice;

1-32 (B) a municipal or county jail;

1-33 (C) a confinement facility operated by or under  
 1-34 contract with the Federal Bureau of Prisons; or

1-35 (D) a secure correctional facility or secure  
 1-36 detention facility, as defined by Section 51.02, Family Code.

1-37 (3) "Detention facility" means a facility operated by  
 1-38 or under contract with United States Immigration and Customs  
 1-39 Enforcement for the purpose of detaining aliens and placing them in  
 1-40 removal proceedings.

1-41 (b) A person commits an offense if the person intentionally  
 1-42 or knowingly:

1-43 (1) operates an unmanned aircraft over a correctional  
 1-44 facility or detention facility and the unmanned aircraft is not  
 1-45 higher than 400 feet above ground level;

1-46 (2) allows an unmanned aircraft to make contact with a  
 1-47 correctional facility or detention facility, including any person  
 1-48 or object on the premises of or within the facility; or

1-49 (3) allows an unmanned aircraft to come within a  
 1-50 distance of a correctional facility or detention facility that is  
 1-51 close enough to interfere with the operations of or cause a  
 1-52 disturbance to the facility.

1-53 (c) This section does not apply to conduct described by  
 1-54 Subsection (b) that is committed by:

1-55 (1) the federal government, this state, or a  
 1-56 governmental entity;

1-57 (2) a person under contract with or otherwise acting  
 1-58 under the direction or on behalf of the federal government, this  
 1-59 state, or a governmental entity;

1-60 (3) a person who has the prior written consent of the  
 1-61 owner or operator of the correctional facility or detention

2-1 facility;  
 2-2 (4) a law enforcement agency; or  
 2-3 (5) a person under contract with or otherwise acting  
 2-4 under the direction or on behalf of a law enforcement agency.  
 2-5 (d) An offense under this section is a Class B misdemeanor,  
 2-6 except that the offense is:  
 2-7 (1) a Class A misdemeanor if the actor has previously  
 2-8 been convicted under this section; or  
 2-9 (2) a state jail felony if, during the commission of  
 2-10 the offense, the actor used the unmanned aircraft to:  
 2-11 (A) provide contraband to a person in the custody  
 2-12 of the correctional facility or detention facility; or  
 2-13 (B) otherwise introduce contraband into the  
 2-14 correctional facility or detention facility.  
 2-15 SECTION 2. The heading to Section 423.0045, Government  
 2-16 Code, is amended to read as follows:  
 2-17 Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER  
 2-18 [~~CORRECTIONAL FACILITY, DETENTION FACILITY, OR~~] CRITICAL  
 2-19 INFRASTRUCTURE FACILITY.  
 2-20 SECTION 3. Sections 423.0045(b) and (c), Government Code,  
 2-21 are amended to read as follows:  
 2-22 (b) A person commits an offense if the person intentionally  
 2-23 or knowingly:  
 2-24 (1) operates an unmanned aircraft over a [~~correctional~~  
 2-25 ~~facility, detention facility, or~~] critical infrastructure facility  
 2-26 and the unmanned aircraft is not higher than 400 feet above ground  
 2-27 level;  
 2-28 (2) allows an unmanned aircraft to make contact with a  
 2-29 [~~correctional facility, detention facility, or~~] critical  
 2-30 infrastructure facility, including any person or object on the  
 2-31 premises of or within the facility; or  
 2-32 (3) allows an unmanned aircraft to come within a  
 2-33 distance of a [~~correctional facility, detention facility, or~~]  
 2-34 critical infrastructure facility that is close enough to interfere  
 2-35 with the operations of or cause a disturbance to the facility.  
 2-36 (c) This section does not apply to [+  
 2-37 [~~(1)~~] conduct described by Subsection (b) that  
 2-38 [~~involves a correctional facility, detention facility, or critical~~  
 2-39 ~~infrastructure facility and~~] is committed by:  
 2-40 (1) [~~(A)~~] the federal government, the state, or a  
 2-41 governmental entity;  
 2-42 (2) [~~(B)~~] a person under contract with or otherwise  
 2-43 acting under the direction or on behalf of the federal government,  
 2-44 the state, or a governmental entity;  
 2-45 (3) [~~(C)~~] a law enforcement agency;  
 2-46 (4) [~~(D)~~] a person under contract with or otherwise  
 2-47 acting under the direction or on behalf of a law enforcement agency;  
 2-48 (5) [~~or~~  
 2-49 [~~(E)~~] an operator of an unmanned aircraft that is  
 2-50 being used for a commercial purpose, if the operation is conducted  
 2-51 in compliance with:  
 2-52 (A) [~~(i)~~] each applicable Federal Aviation  
 2-53 Administration rule, restriction, or exemption; and  
 2-54 (B) [~~(ii)~~] all required Federal Aviation  
 2-55 Administration authorizations;  
 2-56 (6) [~~or~~  
 2-57 [~~(2)~~] ~~conduct described by Subsection (b) that involves~~  
 2-58 ~~a critical infrastructure facility and is committed by:~~  
 2-59 [~~(A)~~] an owner or operator of the critical  
 2-60 infrastructure facility;  
 2-61 (7) [~~(B)~~] a person under contract with or otherwise  
 2-62 acting under the direction or on behalf of an owner or operator of  
 2-63 the critical infrastructure facility;  
 2-64 (8) [~~(C)~~] a person who has the prior written consent  
 2-65 of the owner or operator of the critical infrastructure facility;  
 2-66 or  
 2-67 (9) [~~(D)~~] the owner or occupant of the property on  
 2-68 which the critical infrastructure facility is located or a person  
 2-69 who has the prior written consent of the owner or occupant of that

3-1 property.

3-2 SECTION 4. Sections 423.0045(a)(1) and (3), Government  
3-3 Code, are repealed.

3-4 SECTION 5. The change in law made by this Act to Section  
3-5 423.0045, Government Code, applies only to an offense committed on  
3-6 or after the effective date of this Act. An offense committed  
3-7 before the effective date of this Act is governed by the law in  
3-8 effect on the date the offense was committed, and the former law is  
3-9 continued in effect for that purpose. For purposes of this section,  
3-10 an offense was committed before the effective date of this Act if  
3-11 any element of the offense was committed before that date.

3-12 SECTION 6. This Act takes effect September 1, 2023.

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