

By: Cain

H.B. No. 354

A BILL TO BE ENTITLED

AN ACT

relating to measures to ensure the safety and welfare of the border region of this state, including protection from ongoing criminal activity and public health threats and the establishment of the Border Protection Unit; creating a criminal offense; creating a civil penalty.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. This Act may be cited as the Border Protection Unit Act.

SECTION 1.02. The legislature finds that:

(1) The security of Texans and the sovereignty of this state have been threatened by the deadly activities of transnational cartels operating throughout this state and the United States.

(2) Many Texans have lost the peaceful use and enjoyment of their properties due to criminal activities along the border.

(3) Lethal quantities of opioids such as fentanyl are being trafficked into this state resulting in the poisoning deaths of people throughout Texas and the United States.

(4) Human trafficking by transnational cartels has resulted in the deaths of many people and the exploitation of women and children.

1           (5) Deaths from fentanyl and other synthetic opioids  
2 are increasing in this state and throughout the United States and  
3 number in the tens of thousands according to the National  
4 Institutes of Health of the United States Department of Health and  
5 Human Services.

6           (6) Fentanyl is being produced on an industrial scale  
7 by Mexican cartels and smuggled across the border into Texas.

8           (7) The number of people unlawfully entering Texas  
9 from Mexico at locations other than ports of entry has reached  
10 historic levels and local communities are increasingly  
11 overwhelmed.

12           (8) Law enforcement cannot adequately interdict  
13 fentanyl and human trafficking operations along the Texas-Mexico  
14 border because resources are diverted to address the unlawful entry  
15 by large numbers of people into Texas from Mexico.

16           (9) The legislature, acting with the governor, has the  
17 solemn duty to protect and defend the citizens of this state and  
18 maintain sovereignty over this state's borders.

19           ARTICLE 2. BORDER PROTECTION UNIT

20           SECTION 2.01. Article [2A.001](#), Code of Criminal Procedure,  
21 is amended to read as follows:

22           Art. 2A.001. PEACE OFFICERS GENERALLY. The following are  
23 peace officers:

24           (1) a sheriff, a sheriff's deputy, or a reserve deputy  
25 sheriff who holds a permanent peace officer license issued under  
26 Chapter [1701](#), Occupations Code;

27           (2) a constable, a deputy constable, or a reserve

1 deputy constable who holds a permanent peace officer license issued  
2 under Chapter 1701, Occupations Code;

3 (3) a marshal or police officer of a municipality or a  
4 reserve municipal police officer who holds a permanent peace  
5 officer license issued under Chapter 1701, Occupations Code;

6 (4) a ranger, officer, or member of the reserve  
7 officer corps commissioned by:

8 (A) the Public Safety Commission; and

9 (B) either:

10 (i) the director of the Department of  
11 Public Safety; or

12 (ii) the unit chief of the Border  
13 Protection Unit;

14 (5) an investigator of a district attorney's, criminal  
15 district attorney's, or county attorney's office;

16 (6) a law enforcement agent of the Texas Alcoholic  
17 Beverage Commission;

18 (7) a member of an arson investigating unit  
19 commissioned by a municipality, a county, or the state;

20 (8) an officer commissioned under Section 37.081,  
21 Education Code, or Subchapter E, Chapter 51, Education Code;

22 (9) an officer commissioned by the Texas Facilities  
23 Commission;

24 (10) a law enforcement officer commissioned by the  
25 Parks and Wildlife Commission;

26 (11) an officer commissioned under Chapter 23,  
27 Transportation Code;

1           (12) a municipal park and recreational patrol officer  
2 or security officer;

3           (13) a security officer or investigator commissioned  
4 as a peace officer by the comptroller;

5           (14) an officer commissioned by a water control and  
6 improvement district under Section [49.216](#), Water Code;

7           (15) an officer commissioned by a board of trustees  
8 under Chapter [54](#), Transportation Code;

9           (16) an investigator commissioned by the Texas Medical  
10 Board;

11           (17) an officer commissioned by:

12               (A) the board of managers of the Dallas County  
13 Hospital District, the Tarrant County Hospital District, the Bexar  
14 County Hospital District, or the El Paso County Hospital District  
15 under Section [281.057](#), Health and Safety Code;

16               (B) the board of directors of the Ector County  
17 Hospital District under Section [1024.117](#), Special District Local  
18 Laws Code;

19               (C) the board of directors of the Midland County  
20 Hospital District of Midland County, Texas, under Section [1061.121](#),  
21 Special District Local Laws Code; or

22               (D) the board of hospital managers of the Lubbock  
23 County Hospital District of Lubbock County, Texas, under Section  
24 [1053.113](#), Special District Local Laws Code;

25           (18) a county park ranger commissioned under  
26 Subchapter [E](#), Chapter [351](#), Local Government Code;

27           (19) an investigator employed by the Texas Racing

Commission;

(20) an officer commissioned under Chapter 554, Occupations Code;

(21) an officer commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or a regional transportation authority under Section 452.110, Transportation Code;

(22) an investigator commissioned by the attorney general under Section 402.009, Government Code;

(23) a security officer or investigator commissioned as a peace officer under Chapter 466, Government Code;

(24) an officer appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(25) an officer commissioned by the state fire marshal under Chapter 417, Government Code;

(26) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(27) an apprehension specialist or inspector general commissioned by the Texas Juvenile Justice Department as an officer under Section 242.102 or 243.052, Human Resources Code;

(28) an officer appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(29) an investigator commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

(30) a fire marshal or any related officer, inspector,

1 or investigator commissioned by a county under Subchapter B,  
2 Chapter 352, Local Government Code;

3 (31) a fire marshal or any officer, inspector, or  
4 investigator commissioned by an emergency services district under  
5 Chapter 775, Health and Safety Code;

6 (32) an officer commissioned by the State Board of  
7 Dental Examiners under Section 254.013, Occupations Code, subject  
8 to the limitations imposed by that section; and

9 (33) an investigator commissioned by the Texas  
10 Juvenile Justice Department as an officer under Section 221.011,  
11 Human Resources Code.

12 SECTION 2.02. Section 411.002(a), Government Code, is  
13 amended to read as follows:

14 (a) The Department of Public Safety of the State of Texas is  
15 an agency of the state to enforce the laws protecting the public  
16 safety, ~~and~~ provide for the prevention and detection of crime,  
17 and defend and secure the state's air, maritime, and land borders.  
18 The department is composed of the Texas Rangers, the Texas Highway  
19 Patrol, the Border Protection Unit, the administrative division,  
20 and other divisions that the commission considers necessary.

21 SECTION 2.03. Section 411.004, Government Code, is amended  
22 to read as follows:

23 Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The  
24 commission shall:

25 (1) formulate plans and policies for:  
26 (A) enforcement of state criminal, traffic, and  
27 safety laws;

(B) prevention of crime;

(C) detection and apprehension of persons who violate laws; ~~and~~

(D) education of citizens of this state in the promotion of public safety and the observance of law; and

(E) defense and security of this state's air, maritime, and land borders;

(2) organize the department and supervise its operation;

(3) adopt rules considered necessary for carrying out the department's work;

(4) maintain records of all proceedings and official orders; and

(5) biennially submit a report of its work to the governor and legislature, including the commission's and director's recommendations.

SECTION 2.04. Section 411.006(a), Government Code, is amended to read as follows:

(a) Subject to Section 411.555, the ~~[The]~~ director shall:

(1) be directly responsible to the commission for the conduct of and act as executive director of the Texas Highway Patrol, the Texas Rangers, and other administrative divisions and departments assigned by the commission, other than the Border Protection Unit ~~[the department's affairs];~~

(2) ~~[act as executive director of the department,~~

~~[-3-]]~~ act with the commission in an advisory capacity, without vote;

1           (3) [~~(4)~~] adopt rules, subject to commission  
2 approval, considered necessary for the control of the department;

3           (4) [~~(5)~~] issue commissions as law enforcement  
4 officers, under the commission's direction, to all members of the  
5 Texas Rangers and the Texas Highway Patrol and to other officers of  
6 the department;

7           (5) [~~(6)~~] appoint, with the advice and consent of the  
8 commission, the head of a division or bureau provided for by this  
9 chapter;

10          (6) [~~(7)~~] quarterly, annually, and biennially submit  
11 to the commission detailed reports of the operation of the  
12 department, including statements of its expenditures; and

13          (7) [~~(8)~~] prepare, swear to, submit to the governor,  
14 and file in the department's records a quarterly statement  
15 containing an itemized list of all money received and its source and  
16 all money spent and the purposes for which it was spent.

17          SECTION 2.05. Section [411.007](#)(a), Government Code, is  
18 amended to read as follows:

19          (a) Subject to the provisions of this chapter, the director  
20 may appoint, promote, reduce, suspend, or discharge any officer or  
21 employee of the department, other than an officer or employee of the  
22 Border Protection Unit.

23          SECTION 2.06. Section [411.017](#)(a), Government Code, is  
24 amended to read as follows:

25          (a) A person commits an offense if, without the director's  
26 authorization, the person:

27               (1) manufactures, sells, or possesses a badge,



1 identification card, or other item bearing a department insignia or  
2 an insignia deceptively similar to the department's;

3 (2) makes a copy or likeness of a badge,  
4 identification card, or department insignia, with intent to use or  
5 allow another to use the copy or likeness to produce an item bearing  
6 the department insignia or an insignia deceptively similar to the  
7 department's; or

8 (3) uses the term "Texas Department of Public Safety,"  
9 "Department of Public Safety," "Texas Ranger," ~~or~~ "Texas Highway  
10 Patrol," or "Border Protection Unit" in connection with an object,  
11 with the intent to create the appearance that the object belongs to  
12 or is being used by the department.

13 SECTION 2.07. Chapter 411, Government Code, is amended by  
14 adding Subchapter S to read as follows:

15 SUBCHAPTER S. BORDER PROTECTION UNIT

16 Sec. 411.551. DEFINITIONS. In this subchapter:

17 (1) "Unit" means the Border Protection Unit.

18 (2) "Unit chief" means the person appointed under  
19 Section 411.554 as the unit chief.

20 Sec. 411.552. BORDER PROTECTION UNIT; TERM OF  
21 AUTHORIZATION. (a) The unit is a division under the commission  
22 consisting of the number of commissioned and noncommissioned  
23 officers and other employees authorized by the legislature.

24 (b) The unit is subject to appropriations by the legislature  
25 and, unless continued in existence by the legislature, is abolished  
26 December 31, 2032.

27 (c) This subchapter expires December 31, 2032.

1       Sec. 411.553. HEADQUARTERS. The unit must be headquartered  
2 in the border region.

3       Sec. 411.554. UNIT CHIEF. (a) The governor shall appoint a  
4 United States citizen to serve as the unit chief of the Border  
5 Protection Unit. The unit chief serves until removed by the  
6 governor.

7       (b) The unit chief may appoint, with the advice and consent  
8 of the commission, deputy unit chiefs and assistant unit chiefs who  
9 shall perform the duties that the unit chief designates. Deputy  
10 unit chiefs and assistant unit chiefs serve until removed by the  
11 unit chief.

12       (c) The unit chief, deputy unit chiefs, and assistant unit  
13 chiefs are entitled to annual salaries as provided by the  
14 legislature.

15       Sec. 411.555. GENERAL POWERS AND DUTIES OF UNIT AND UNIT  
16 CHIEF. (a) The unit chief shall:

17               (1) be directly responsible to the commission for all  
18 conduct of the unit, but may be removed only by the governor under  
19 Section 411.554;

20               (2) act as the executive director of the unit;

21               (3) act with the commission in an advisory capacity,  
22 without vote;

23               (4) adopt rules, subject to commission approval,  
24 considered necessary for the control and general administration of  
25 the unit, including rules governing the procurement of facilities  
26 and equipment for the unit and the training and working conditions  
27 for unit personnel;

1           (5) issue commissions as law enforcement officers,  
2 under the commission's direction, to members of the unit;

3           (6) create as necessary, with the advice and consent  
4 of the commission, operational or administrative divisions within  
5 the unit and appoint heads of those divisions;

6           (7) employ as necessary commissioned and  
7 noncommissioned officers and other employees to perform unit  
8 operations and functions;

9           (8) quarterly, annually, and biennially submit to the  
10 commission detailed reports of the operation of the unit, including  
11 statements of its expenditures; and

12           (9) prepare, swear to, submit to the governor, and  
13 file in the unit's records a quarterly statement containing an  
14 itemized list of all money received and its source and all money  
15 spent and the purposes for which it was spent.

16           (b) The unit chief or unit chief's designee shall provide to  
17 members of the commission and to employees of the unit, as often as  
18 necessary, information regarding the requirements for office or  
19 employment under this chapter, including information regarding a  
20 person's responsibilities under applicable law relating to  
21 standards of conduct for state officers or employees.

22           (c) Subject to Subsection (d), the following provisions  
23 apply to the unit chief with respect to the unit in the same manner  
24 as the provisions apply to the director with respect to the  
25 department or, as applicable, apply to the unit when acting at the  
26 direction of the unit chief in the same manner as the provisions  
27 apply to the department when acting at the direction of the

1 director:  
2           (1) Section 411.007;  
3           (2) Section 411.0071;  
4           (3) Section 411.0075;  
5           (4) Section 411.0079;  
6           (5) Section 411.009;  
7           (6) Section 411.0095;  
8           (7) Section 411.0097, as added by Section 3, Chapter  
9 556 (H.B. 1239), Acts of the 79th Legislature, Regular Session,  
10 2005;  
11           (8) Section 411.0097, as added by Section 1, Chapter  
12 693 (S.B. 293), Acts of the 79th Legislature, Regular Session,  
13 2005;  
14           (9) Section 411.0098;  
15           (10) Section 411.013(b);  
16           (11) Section 411.0131;  
17           (12) Section 411.0132;  
18           (13) Section 411.0141(e);  
19           (14) Section 411.015;  
20           (15) Section 411.016;  
21           (16) Section 411.0161;  
22           (17) Section 411.0162;  
23           (18) Section 411.0163;  
24           (19) Section 411.0164;  
25           (20) Section 411.017;  
26           (21) Section 411.018;  
27           (22) Sections 411.0207(c)(1)-(5);

(23) Sections 411.0208(d) and (e);

(24) Section 411.0209;

(25) Section 411.02095;

(26) Section 411.0865;

(27) Section 411.087(e);

(28) Section 411.0891; and

(29) Section 411.154.

(d) The director may not exercise any operational or administrative control over the unit chief or the unit. The unit chief may not exercise any operational or administrative control over the director or the department, other than the unit.

(e) The unit is a criminal justice agency for purposes of this chapter.

(f) The unit:

(1) may collect, preserve, ship, and analyze a DNA sample for the DNA database subject to the rules adopted under Section 411.146(c)(1); and

(2) is entitled to access or use a DNA sample or record subject to the rules adopted under Section 411.147(b).

(g) The unit is a law enforcement agency for purposes of Section 411.1471(b).

(h) The unit may assist local law enforcement with the investigation of crime.

Sec. 411.556. OFFICE OF AUDIT AND REVIEW FOR UNIT. The governor shall establish the office of audit and review within the unit and appoint the director of the office to perform the duties under Subchapter I with respect to the unit. The director of the

office of audit and review of the unit shall serve until removed by the governor.

Sec. 411.557. INSPECTOR GENERAL FOR UNIT. (a) The governor shall establish the office of the inspector general within the unit and appoint the inspector general of the unit who shall perform with respect to the unit the duties of Subchapter I-1 or as may be provided by other law. The inspector general of the unit shall serve until removed by the governor.

(b) The inspector general of the unit is responsible for:

(1) preparing and delivering assessments concerning the administration of the unit to the governor, the legislature, and the unit chief;

(2) acting to prevent and detect serious breaches of unit policy, fraud, and abuse of office, including any acts of criminal conduct within the unit; and

(3) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:

(A) conduct described by Subdivision (2);

(B) criminal activity occurring within the unit;

(C) allegations of wrongdoing by unit employees;

(D) crimes committed on unit property; and

(E) serious breaches of unit policy.

Sec. 411.558. OFFICERS; OTHER EMPLOYEES. (a) The unit chief may employ commissioned or noncommissioned officers meeting the qualifications described by Section 411.561 to perform the duties of the unit. Those officers are entitled to compensation as provided by the legislature and must be recruited and trained

1 within the border region to the extent practicable.

2 (b) The unit chief may employ individuals who are not  
3 officers as necessary to carry out the duties of the unit.

4 (c) Subject to the provisions of this chapter, the unit  
5 chief may appoint, promote, reduce, suspend, or discharge any  
6 officer or employee of the unit.

7 Sec. 411.559. AUTHORITY OF OFFICERS. (a) A commissioned  
8 officer of the unit is governed by the law regulating and defining  
9 the powers and duties of sheriffs performing similar duties, except  
10 that the officer may make arrests and execute processes in a  
11 criminal case in any county.

12 (b) Subject to Subsection (c), a commissioned or  
13 noncommissioned officer of the unit may, to the extent consistent  
14 with the United States and Texas Constitutions, arrest, apprehend,  
15 or detain persons crossing the Texas-Mexico border unlawfully, and  
16 deter persons attempting to cross the border unlawfully, including  
17 with the use of non-deadly crowd control measures.

18 (c) A noncommissioned officer may not exercise the  
19 authority provided by Subsection (b) unless specifically  
20 authorized by the commission and the governor and unless the  
21 officer has been provided training approved by the commission and  
22 the governor. A noncommissioned officer may exercise the arrest  
23 authority provided by Subsection (b) only if the authority is  
24 exercised in a county:

25 (1) contiguous with the Texas-Mexico border; or

26 (2) adjoining a county described by Subdivision (1).

27 (d) The commission shall develop or recognize a training

1 program required by Subsection (c).

2 Sec. 411.560. DEFENSES TO CIVIL AND CRIMINAL LIABILITY.  
3 Notwithstanding any other law, any defense or affirmative defense  
4 that applies to a peace officer in a civil or criminal action  
5 applies to the unit chief and the officers and other employees of  
6 the unit in a civil or criminal action brought against the unit  
7 chief or an officer or other employee of the unit arising from  
8 conduct engaged in while discharging the duties of the unit.

9 Sec. 411.561. QUALIFICATIONS AND STANDARDS. (a) To be a  
10 commissioned officer of the unit, a person must hold a peace officer  
11 license issued under Chapter 1701, Occupations Code, and meet any  
12 other qualifications set by the commission.

13 (b) To be a noncommissioned officer of the unit, a person  
14 must be a United States citizen and meet any other qualifications  
15 set by the commission.

16 (c) A noncommissioned officer shall operate under the  
17 accountability requirements and standards of professional conduct  
18 set forth by the commission.

19 (d) The unit is an equal employment opportunity employer and  
20 may not discriminate against or give preferential treatment to any  
21 employee or job applicant on account of the individual's race,  
22 color, sex, national origin, or religion.

23 Sec. 411.562. FACILITIES AND EQUIPMENT; TRAINING; TRANSFER  
24 FROM DEPARTMENT. (a) The unit shall acquire equipment and  
25 facilities and conduct training necessary to fulfill the  
26 operational, intelligence, communication, logistics, and  
27 administrative duties provided by this chapter and the unit chief.



1       (b) The commission shall transfer existing personnel,  
2 equipment, and facilities to the unit from within the department as  
3 determined necessary by the commission or the governor, in the  
4 commission's or governor's discretion, while maintaining  
5 accountability and adequate support for all officers and activities  
6 within the commission's responsibility.

7       Sec. 411.563. CONSTRUCTION AND MAINTENANCE OF PHYSICAL  
8 BARRIERS. (a) The unit shall oversee the construction and  
9 maintenance of walls, fences, and other physical barriers along the  
10 Texas-Mexico border in order to enhance the safety and security of  
11 citizens of this state.

12       (b) The unit chief, or the unit chief's designee, is  
13 authorized to negotiate and acquire the necessary rights-of-way,  
14 leases, permissions, materials, and services needed to erect and  
15 maintain physical barriers.

16       (c) The unit may use funds appropriated by the legislature,  
17 other government funds, or donations from United States citizens  
18 and domestic entities.

19       (d) The commission may delegate authority granted under  
20 this section to another state agency.

21       Sec. 411.564. ARTICLE I, SECTION 10 INVOCATION. Pursuant  
22 to a legislative finding or a declaration by the governor that a  
23 state of invasion or imminent danger under Section 10, Article I,  
24 United States Constitution, exists, the unit chief and director may  
25 order personnel under their authority to take, and the personnel  
26 may take, the following actions to the extent consistent with the  
27 United States and Texas Constitutions:

1           (1) deter and repel persons attempting to enter this  
2 state unlawfully at locations other than ports of entry;

3           (2) return aliens to Mexico who:

4                 (A) have been observed actually crossing the  
5 Texas-Mexico border unlawfully; and

6                 (B) were apprehended, detained, or arrested in  
7 the vicinity of the Texas-Mexico border;

8           (3) enhance the examination of aircraft, ships,  
9 vehicles, railcars, and cargo at or near ports of entry for the  
10 purposes of interdicting fentanyl and other dangerous drugs and  
11 interdicting human smuggling; and

12           (4) use force to repel, arrest, and detain known  
13 transnational cartel operatives in the border region.

14           Sec. 411.565. OPERATIONAL PLAN TO COORDINATE BORDER  
15 SECURITY. (a) The unit shall develop and recommend to the governor  
16 and report to the legislature a strategic plan that establishes the  
17 framework for the budget and operations of the unit, including  
18 homeland security strategies and the assistance of other state and  
19 local entities. The unit shall annually report to the governor and  
20 the legislature on the implementation of the strategic plan.

21           (b) The unit shall include in the strategic plan goals,  
22 objectives, and performance measures that involve collaboration  
23 with other state agencies and local entities.

24           (c) The unit shall create plans and conduct operations  
25 consistent with the strategic plan.

26           (d) The operational plan under this section must include an  
27 evaluation of 8 U.S.C. Section 1325(a) and other federal laws

1 relating to the requirement that border crossings occur only at  
2 designated ports of entry.

3         SECTION 2.08. (a) Mindful of *Leavitt vs. Jane L.*, 518 U.S.  
4 137 (1996), in which in the context of determining the severability  
5 of a state statute the Supreme Court of the United States held that  
6 an explicit statement of legislative intent is controlling, it is  
7 the intent of the legislature that every provision, section,  
8 subsection, sentence, clause, phrase, or word in this article, and  
9 every application of the provisions in this article to every  
10 person, group of persons, or circumstances, are severable from each  
11 other.

12         (b) If any application of any provision in this article to  
13 any person, group of persons, or circumstances is found by a court  
14 to be invalid, preempted, or unconstitutional, for any reason  
15 whatsoever, then the remaining application of that provision to all  
16 other persons and circumstances shall be severed and preserved, and  
17 shall remain in effect. All constitutionally valid applications of  
18 the provisions in this article shall be severed from any  
19 applications that a court finds to be invalid, preempted, or  
20 unconstitutional, because it is the legislature's intent and  
21 priority that every single valid application of every statutory  
22 provision be allowed to stand alone.

23         (c) The legislature further declares that it would have  
24 enacted this article, and each provision, section, subsection,  
25 sentence, clause, phrase, or word, and all constitutional  
26 applications of the provisions of this article, irrespective of the  
27 fact that any provision, section, subsection, sentence, clause,

1 phrase, or word, or applications of this article were to be declared  
2 invalid, preempted, or unconstitutional.

3 (d) If any provision of this article is found by any court to  
4 be unconstitutionally vague, then the applications of that  
5 provision that do not present constitutional vagueness problems  
6 shall be severed and remain in force, consistent with the  
7 severability requirements of Subsections (a), (b), and (c) of this  
8 section.

9 (e) No court may decline to enforce the severability  
10 requirements of Subsections (a), (b), (c), and (d) of this section  
11 on the ground that severance would "rewrite" the statute or involve  
12 the court in legislative or lawmaking activity. A court that  
13 declines to enforce or enjoins a state official from enforcing a  
14 statutory provision is never rewriting a statute or engaging in  
15 legislative or lawmaking activity, as the statute continues to  
16 contain the same words as before the court's decision. A judicial  
17 injunction or declaration of unconstitutionality:

18 (1) is nothing more than an edict prohibiting  
19 enforcement of the disputed statute against the named parties to  
20 that lawsuit, which may subsequently be vacated by a later court if  
21 that court has a different understanding of the requirements of the  
22 Texas Constitution or the United States Constitution or federal  
23 law;

24 (2) is not a formal amendment of the language in a  
25 statute; and

26 (3) no more rewrites a statute than a decision by the  
27 executive not to enforce a duly enacted statute in a limited and

1 defined set of circumstances.

2 (f) If any state or federal court disregards any of the  
3 severability requirements in Subsections (a), (b), (c), (d), or (e)  
4 of this section, and declares or finds any provision of this article  
5 facially invalid, preempted, or unconstitutional, when there are  
6 discrete applications of that provision that can be enforced  
7 against a person, group of persons, or circumstances without  
8 violating federal law or the federal or state constitutions, then  
9 that provision shall be interpreted, as a matter of state law, as if  
10 the legislature had enacted a provision limited to the persons,  
11 group of persons, or circumstances for which the provision's  
12 application will not violate federal law or the federal or state  
13 constitutions, and every court shall adopt this saving construction  
14 of that provision until the court ruling that pronounced the  
15 provision facially invalid, preempted, or unconstitutional is  
16 vacated or overruled.

17 SECTION 2.09. As soon as practicable after the effective  
18 date of this Act, the governor shall appoint the unit chief as  
19 prescribed by Section 411.554, Government Code, as added by this  
20 Act.

21 ARTICLE 3. TRESPASS: CIVIL AND CRIMINAL PENALTIES

22 SECTION 3.01. Article 17.44, Code of Criminal Procedure, is  
23 amended by adding Subsection (b-1) to read as follows:

24 (b-1) A magistrate shall require as a condition of release  
25 on bond for a defendant arrested for an offense under Section 30.08,  
26 Penal Code, that the defendant submit to electronic monitoring  
27 under the supervision of an agency designated by the magistrate,

1 unless the magistrate finds that the defendant is not a flight risk.

2 SECTION 3.02. Chapter 752, Government Code, is amended by  
3 adding Subchapter D to read as follows:

4 SUBCHAPTER D. ENFORCEMENT BY ATTORNEY GENERAL

5 Sec. 752.101. CIVIL PENALTY: TRESPASS WHILE ENTERING THIS  
6 STATE. (a) A person who engages in conduct constituting an  
7 offense under Section 30.08, Penal Code, is liable to this state for  
8 a civil penalty in an amount not to exceed \$10,000 for each  
9 occurrence of the conduct.

10 (b) The attorney general may bring an action to collect the  
11 civil penalty and may recover attorney's fees and costs incurred in  
12 bringing the action.

13 SECTION 3.03. Chapter 30, Penal Code, is amended by adding  
14 Section 30.08 to read as follows:

15 Sec. 30.08. TRESPASS WHILE ENTERING THIS STATE. (a) A  
16 person commits an offense if the person knowingly enters the  
17 property of another, without the effective consent of the owner,  
18 while knowingly entering this state from any neighboring  
19 jurisdiction, regardless of the person's immigration status.

20 (b) An offense under this section is a felony of the third  
21 degree.

22 (c) If conduct that constitutes an offense under this  
23 section also constitutes an offense under another law, the actor  
24 may be prosecuted under this section, the other law, or both.

25 ARTICLE 4. PUBLIC HEALTH EMERGENCY

26 SECTION 4.01. Subtitle D, Title 2, Health and Safety Code,  
27 is amended by adding Chapter 81A to read as follows:

CHAPTER 81A. SUSPENSION OF ENTRY OF PERSONS FROM DESIGNATED PLACES  
TO PREVENT SPREAD OF COMMUNICABLE DISEASES

Sec. 81A.001. DEFINITIONS. In this chapter:

(1) "COVID-19" means the 2019 novel coronavirus  
disease.

(2) "Federally declared public health emergency"  
means:

(A) a public health emergency declared by the  
United States secretary of health and human services under 42  
U.S.C. Section 247d; or

(B) an emergency or disaster declared, including  
under a renewal of the declaration, by the president of the United  
States in relation to a public health emergency described by  
Paragraph (A) under:

(i) the National Emergencies Act (50 U.S.C.  
Section 1601 et seq.); or

(ii) the Robert T. Stafford Disaster Relief  
and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.).

(3) "Person" means any individual other than one  
described by:

(A) the first sentence of Section 1 of the  
Fourteenth Amendment to the United States Constitution; or

(B) 8 U.S.C. Section 1101(a)(20).

(4) "Port of entry" means a port of entry described by  
Part 101, Title 19, Code of Federal Regulations (19 C.F.R. part  
101), or 22 C.F.R. Section 40.1.

Sec. 81A.002. SUSPENSION OF ENTRY. (a) To the extent

1 consistent with the United States Constitution, all persons  
2 entering this state by land from another country must pass through a  
3 port of entry for appropriate medical review during:

4 (1) the pendency of any federally declared public  
5 health emergency for COVID-19;

6 (2) any time that a federal agency has in place any  
7 vaccination requirement for any person lawfully residing in the  
8 United States, including government contractors or health care  
9 workers, for the purposes of preventing the spread of COVID-19 in  
10 the United States; or

11 (3) any time the United States Department of State has  
12 in place any travel warning related to COVID-19 for any country from  
13 which citizens have unlawfully entered the United States during the  
14 most recent year for which there is available data.

15 (b) A person who enters this state from a foreign country  
16 other than in accordance with Subsection (a), to the extent  
17 consistent with the United States Constitution, shall be removed to  
18 the country from which they entered the United States, their  
19 country of origin, or another location as practicable, as rapidly  
20 as possible with as little time spent in congregate settings as  
21 practicable under the circumstances.

22 SECTION 4.02. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S.  
23 137 (1996), in which in the context of determining the severability  
24 of a state statute the Supreme Court of the United States held that  
25 an explicit statement of legislative intent is controlling, it is  
26 the intent of the legislature that every provision, section,  
27 subsection, sentence, clause, phrase, or word in this article, and



1 every application of the provisions in this article to every  
2 person, group of persons, or circumstances, are severable from each  
3 other.

4 (b) If any application of any provision in this article to  
5 any person, group of persons, or circumstances is found by a court  
6 to be invalid, preempted, or unconstitutional, for any reason  
7 whatsoever, then the remaining applications of that provision to  
8 all other persons and circumstances shall be severed and preserved,  
9 and shall remain in effect. All constitutionally valid  
10 applications of the provisions in this article shall be severed  
11 from any applications that a court finds to be invalid, preempted,  
12 or unconstitutional, because it is the legislature's intent and  
13 priority that every single valid application of every statutory  
14 provision be allowed to stand alone.

15 (c) The legislature further declares that it would have  
16 enacted this article, and each provision, section, subsection,  
17 sentence, clause, phrase, or word, and all constitutional  
18 applications of the provisions of this article, irrespective of the  
19 fact that any provision, section, subsection, sentence, clause,  
20 phrase, or word, or applications of this article were to be declared  
21 invalid, preempted, or unconstitutional.

22 (d) If any provision of this article is found by any court to  
23 be unconstitutionally vague, then the applications of that  
24 provision that do not present constitutional vagueness problems  
25 shall be severed and remain in force, consistent with the  
26 severability requirements of Subsections (a), (b), and (c) of this  
27 section.

1           (e) No court may decline to enforce the severability  
2 requirements of Subsections (a), (b), (c), and (d) of this section  
3 on the ground that severance would "rewrite" the statute or involve  
4 the court in legislative or lawmaking activity. A court that  
5 declines to enforce or enjoins a state official from enforcing a  
6 statutory provision is never rewriting a statute or engaging in  
7 legislative or lawmaking activity, as the statute continues to  
8 contain the same words as before the court's decision. A judicial  
9 injunction or declaration of unconstitutionality:

10           (1) is nothing more than an edict prohibiting  
11 enforcement of the disputed statute against the named parties to  
12 that lawsuit, which may subsequently be vacated by a later court if  
13 that court has a different understanding of the requirements of the  
14 Texas Constitution or the United States Constitution or federal  
15 law;

16           (2) is not a formal amendment of the language in a  
17 statute; and

18           (3) no more rewrites a statute than a decision by the  
19 executive not to enforce a duly enacted statute in a limited and  
20 defined set of circumstances.

21           (f) If any state or federal court disregards any of the  
22 severability requirements in Subsections (a), (b), (c), (d), or (e)  
23 of this section, and declares or finds any provision of this article  
24 facially invalid, preempted, or unconstitutional, when there are  
25 discrete applications of that provision that can be enforced  
26 against a person, group of persons, or circumstances without  
27 violating federal law or the federal or state constitutions, then

1 that provision shall be interpreted, as a matter of state law, as if  
2 the legislature had enacted a provision limited to the persons,  
3 group of persons, or circumstances for which the provision's  
4 application will not violate federal law or the federal or state  
5 constitutions, and every court shall adopt this saving construction  
6 of that provision until the court ruling that pronounced the  
7 provision facially invalid, preempted, or unconstitutional is  
8 vacated or overruled.

9 ARTICLE 5. LEGISLATIVE OVERSIGHT

10 SECTION 5.01. Subtitle C, Title 3, Government Code, is  
11 amended by adding Chapter 330 to read as follows:

12 CHAPTER 330. LEGISLATIVE BORDER SAFETY OVERSIGHT COMMITTEE

13 Sec. 330.001. DEFINITION. In this section, "committee"  
14 means the legislative border safety oversight committee  
15 established under this chapter.

16 Sec. 330.002. ESTABLISHMENT; COMPOSITION. (a) The  
17 legislative border safety oversight committee is established to:

18 (1) provide objective research, analysis, and  
19 recommendations to help guide state border safety policies;

20 (2) provide oversight for the Border Protection Unit  
21 established under Subchapter S, Chapter 411; and

22 (3) perform other duties required by law.

23 (b) The committee consists of the following members:

24 (1) the lieutenant governor;

25 (2) the speaker of the house of representatives;

26 (3) four senators appointed by the lieutenant  
27 governor; and

1           (4) four members of the house of representatives  
2 appointed by the speaker of the house of representatives.

3           (c) The lieutenant governor and the speaker of the house of  
4 representatives are joint chairs of the committee.

5           Sec. 330.003. POWERS AND DUTIES. (a) The committee shall:

6           (1) use statistical analyses and other research  
7 methods to conduct an in-depth examination of border safety  
8 initiatives and programs in this state that includes:

9           (A) an assessment of the cost-effectiveness of  
10 the use of state and local funds in ensuring border safety;

11           (B) an identification of critical border safety  
12 problems; and

13           (C) a determination of the state's long-range  
14 border safety needs;

15           (2) recommend to the legislature:

16           (A) strategies to solve the problems identified  
17 under Subdivision (1)(B); and

18           (B) policy priorities to address the long-range  
19 needs determined under Subdivision (1)(C); and

20           (3) advise and assist the legislature in developing  
21 plans, programs, and proposed legislation to improve the  
22 effectiveness of border safety initiatives and programs.

23           (b) The committee has all other powers and duties provided  
24 to a special committee by:

25           (1) Subchapter B, Chapter 301;

26           (2) the rules of the senate and the house of  
27 representatives; and

1           (3) policies of the senate and house committees on  
2 administration.

3           Sec. 330.004. MEETINGS; QUORUM. (a) A majority of the  
4 members of the committee from each house of the legislature  
5 constitutes a quorum to transact business. If a quorum is present,  
6 the committee may act on any matter within the committee's  
7 jurisdiction by a majority vote.

8           (b) The committee shall meet as often as necessary to  
9 perform the committee's duties. Meetings may be held at any time at  
10 the request of either chair or on written petition of a majority of  
11 the committee members from each house of the legislature.

12           (c) The committee shall meet in the city of Austin, except  
13 that if a majority of the committee members from each house of the  
14 legislature agree, the committee may meet in any location  
15 determined by the committee.

16           (d) As an exception to Chapter 551 and other law, for a  
17 meeting in the city of Austin at which both joint chairs of the  
18 committee are physically present, any number of the other committee  
19 members may attend the meeting by use of telephone conference call,  
20 videoconference call, or other similar technology. This subsection  
21 applies for purposes of establishing a quorum or voting or any other  
22 purpose allowing the members to fully participate in any committee  
23 meeting. This subsection applies without regard to the subject or  
24 topics considered by the members at the meeting.

25           (e) A committee meeting held by use of telephone conference  
26 call, videoconference call, or other similar technology:

27           (1) is subject to the notice requirements applicable

1 to other meetings;

2 (2) must specify in the notice of the meeting the  
3 location in the city of Austin at which the joint chairs will be  
4 physically present;

5 (3) must be open to the public and audible to the  
6 public at the location specified in the notice under Subdivision  
7 (2); and

8 (4) must provide two-way audio communication between  
9 all committee members attending the meeting during the entire  
10 meeting, and if the two-way audio communication link with any  
11 member attending the meeting is disrupted at any time, the meeting  
12 may not continue until the two-way audio communication link is  
13 reestablished.

14 Sec. 330.005. STAFF; AUTHORITY TO CONTRACT. The committee  
15 may hire staff or may contract with universities or other suitable  
16 entities to assist the committee in carrying out the committee's  
17 duties. Funding to support the operation of the committee shall be  
18 provided from funds appropriated to the Texas Legislative Council.

19 Sec. 330.006. REPORT. Not later than January 1 of each  
20 odd-numbered year, the committee shall submit to the legislature a  
21 report that contains the recommendations described by Section  
22 330.003(a)(2).

23 ARTICLE 6. SEVERABILITY; TRANSITIONS; EFFECTIVE DATE

24 SECTION 6.01. (a) If any provision of this Act or its  
25 application to any person or circumstance is held invalid, the  
26 invalidity does not affect other provisions or applications of this  
27 Act that can be given effect without the invalid provision or

1 application, and to this end the provisions of this Act are declared  
2 to be severable.

3 (b) Subsection (a) of this section does not affect another  
4 severability provision contained in this Act.

5 SECTION 6.02. It is the intent of the 89th Legislature,  
6 Regular Session, 2025, that the amendments made by this Act be  
7 harmonized with another Act of the 89th Legislature, Regular  
8 Session, 2025, relating to nonsubstantive additions to and  
9 corrections in enacted codes.

10 SECTION 6.03. This Act takes effect immediately if it  
11 receives a vote of two-thirds of all the members elected to each  
12 house, as provided by Section 39, Article III, Texas Constitution.  
13 If this Act does not receive the vote necessary for immediate  
14 effect, this Act takes effect September 1, 2025.