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H.B. No. 13

A BILL TO BE ENTITLED

AN ACT

relating to homeland security issues, including border security
issues and law enforcement.

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

SECTION 1. Section 51.212, Education Code, is amended to
read as follows:

Sec. 51.212. PEACE [~~SECURITY~~] OFFICERS AT PRIVATE
INSTITUTIONS. (a) The governing boards of private institutions of
higher education, including private junior colleges, are
authorized to employ and commission peace officers [~~campus security
personnel~~] for the purpose of enforcing:

(1) state law [~~the law of this state~~] on the campuses
of private institutions of higher education; and

(2) state and local law, including applicable
municipal ordinances, at other locations, as permitted by
Subsection (b) or Section 51.2125.

(b) Any officer commissioned under the provisions of this
section is vested with all the powers, privileges, and immunities
of peace officers if the officer:

(1) is [~~while~~] on the property under the control and
jurisdiction of the respective private institution of higher
education or is otherwise performing [~~in the performance of his
assigned~~] duties assigned to the officer by the institution,
regardless of whether the officer is on property under the control

1 and jurisdiction of the institution; or

2 (2) to the extent authorized by Section 51.2125, is:

3 (A) requested by another law enforcement agency
4 to provide assistance in enforcing state or local law, including a
5 municipal ordinance, and is acting in response to that request; or

6 (B) otherwise assisting another law enforcement
7 agency in enforcing a law described by Paragraph (A).

8 (c) Any officer assigned to duty and commissioned shall take
9 and file the oath required of peace officers, and shall execute and
10 file a good and sufficient bond in the sum of \$1,000, payable to the
11 governor, with two or more good and sufficient sureties,
12 conditioned that the officer [~~he~~] will fairly, impartially, and
13 faithfully perform the duties as may be required of the officer
14 [~~him~~] by law. The bond may be sued on from time to time in the name
15 of the person injured until the whole amount is recovered.

16 (d) [~~(b)~~] The governing boards of private institutions of
17 higher education are authorized to hire and pay on a regular basis
18 peace [~~law-enforcement~~] officers commissioned by an incorporated
19 city. The officers shall be under the supervision of the hiring
20 institution, but shall be subject to dismissal and disciplinary
21 action by the city. An incorporated city is authorized to contract
22 with a private institution of higher education for the use and
23 employment of its commissioned officers in any manner agreed to,
24 provided that there is no expense incurred by the city.

25 (e) [~~(c)~~] In this section, "private institution of higher
26 education" means a private or independent institution of higher
27 education as defined [~~has the meaning assigned~~] by Section 61.003

1 ~~[61.003(15) of this code].~~

2 SECTION 2. Subchapter E, Chapter 51, Education Code, is
3 amended by adding Sections 51.2125 and 51.2126 to read as follows:

4 Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO
5 MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a
6 private institution of higher education, as defined by Section
7 61.003, with a fall head count enrollment of more than 10,000
8 students.

9 (b) If the institution has under its control and
10 jurisdiction property that is contiguous to, or located in any part
11 within the boundaries of, a municipality with a population of more
12 than one million, in addition to exercising the authority provided
13 under Section 51.212(d), the governing board of a private
14 institution of higher education to which this section applies and
15 the governing body of each municipality, regardless of the
16 municipality's population, that is contiguous to, or the boundaries
17 of which contain any part of, property under the control and
18 jurisdiction of the private institution of higher education may
19 enter into a written mutual assistance agreement in which peace
20 officers commissioned by the institution or the applicable
21 municipality serve the public interest by assisting, without any
22 form of additional compensation or other financial benefit, the
23 peace officers of the other party to the agreement in enforcing
24 state or local law, including applicable municipal ordinances. The
25 agreement must be reviewed at least annually by the institution and
26 the municipality and may be modified at that time by a written
27 agreement signed by each party. The agreement may be terminated at

1 any time by a party to the agreement on the provision of reasonable
2 notice to the other party to the agreement.

3 (c) A mutual assistance agreement authorized by this
4 section may designate the geographic area in which the campus peace
5 officers are authorized to provide assistance to the peace officers
6 of the municipality.

7 (d) This section does not affect a municipality's duty to
8 provide law enforcement services to any location within the
9 boundaries of the municipality.

10 (e) A peace officer providing assistance under a mutual
11 assistance agreement authorized by this section may make arrests
12 and exercise all other authority given to peace officers under
13 other state law. The municipal law enforcement agency has
14 exclusive authority to supervise any campus peace officer operating
15 under the agreement to assist the peace officers of the
16 municipality. A municipal peace officer operating under the
17 agreement to assist the campus peace officers remains under the
18 supervision of the municipal law enforcement agency.

19 (f) In the same manner and to the same extent as a
20 municipality is liable for an act or omission of a peace officer
21 employed by the municipality, a private institution of higher
22 education is liable for an act or omission of a campus peace officer
23 operating under a mutual assistance agreement authorized by this
24 section at a location other than property under the control and
25 jurisdiction of the institution.

26 (g) This section does not limit the authority of a campus
27 peace officer to make a warrantless arrest outside the officer's

1 jurisdiction as described by Article 14.03(d), Code of Criminal
2 Procedure.

3 Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF
4 DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF
5 ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace
6 officer acting under a mutual assistance agreement authorized by
7 Section 51.2125 who is demoted, suspended, or terminated by the
8 applicable private institution of higher education or who
9 experiences a promotional bypass by the institution may elect to
10 appeal the institution's action to an independent third party
11 hearing examiner under this section.

12 (b) To elect to appeal to an independent third party hearing
13 examiner under this section, the campus peace officer must submit
14 to the head of the institution's law enforcement agency not later
15 than the 30th day after the date of the action being appealed a
16 written request stating the officer's decision to appeal to such a
17 hearing examiner.

18 (c) The hearing examiner's decision is final and binding on
19 all parties. If a campus peace officer elects to appeal the
20 institution's action to an independent third party hearing examiner
21 under this section, the officer or institution may appeal the
22 examiner's decision to a district court only as provided by
23 Subsection (j).

24 (d) If a campus peace officer elects to appeal to a hearing
25 examiner, the officer and the head of the institution's law
26 enforcement agency or their designees shall attempt to agree on the
27 selection of an impartial hearing examiner. If the parties do not

1 agree on the selection of a hearing examiner before the 10th day
2 after the date the appeal is filed, the parties immediately shall
3 request a list of seven qualified neutral arbitrators from the
4 American Arbitration Association or the Federal Mediation and
5 Conciliation Service, or their successors in function. The officer
6 and the agency head or their designees may agree on one of the seven
7 neutral arbitrators on the list. If the parties do not agree before
8 the fifth business day after the date the parties receive the list,
9 the parties or their designees shall alternate striking a name from
10 the list, and the single name remaining after all other names have
11 been struck is selected as the hearing examiner. The parties or
12 their designees shall agree on a date for the hearing.

13 (e) The appeal hearing must begin as soon as an appearance
14 by the hearing examiner can be scheduled. If the hearing examiner
15 cannot begin the hearing before the 45th day after the date of
16 selection, the campus peace officer may, within 48 hours after
17 learning of that fact, call for the selection of a new hearing
18 examiner using the procedure prescribed by Subsection (d).

19 (f) In a hearing conducted under this section, the hearing
20 examiner has the same duties and powers that a civil service
21 commission has in conducting a hearing or hearing an appeal under
22 Chapter 143, Local Government Code, including the right to issue
23 subpoenas. The hearing examiner may:

24 (1) order that the campus peace officer be reinstated
25 to the same position or status in which the officer was employed
26 immediately before the demotion, suspension, or termination or, in
27 the case of a promotional bypass, to the position or status with

1 respect to which the officer experienced the bypass; and

2 (2) award the officer lost wages and any other
3 compensation lost as a result of the disciplinary action or
4 promotional bypass, as applicable.

5 (g) In a hearing conducted under this section, the parties
6 may agree to an expedited hearing procedure. Unless otherwise
7 agreed by the parties, in an expedited procedure the hearing
8 examiner shall issue a decision on the appeal not later than the
9 10th day after the date the hearing is completed.

10 (h) In an appeal that does not involve an expedited hearing
11 procedure, the hearing examiner shall make a reasonable effort to
12 issue a decision on the appeal not later than the 30th day after the
13 later of the date the hearing is completed or the briefs are filed.
14 The hearing examiner's inability to meet the time requirements
15 imposed by this section does not affect the hearing examiner's
16 jurisdiction, the validity of the disciplinary action or
17 promotional bypass, or the hearing examiner's final decision.

18 (i) The hearing examiner's fees and expenses shall be paid
19 in equal amounts by the parties. The costs of a witness shall be
20 paid by the party who calls the witness.

21 (j) A district court may hear an appeal of a hearing
22 examiner's decision only on the grounds that the hearing examiner
23 was without jurisdiction or exceeded the examiner's jurisdiction or
24 that the decision was procured by fraud, collusion, or other
25 unlawful means. An appeal must be brought in the district court
26 having jurisdiction in the municipality in which the institution is
27 located.

1 SECTION 3. Subchapter B, Chapter 402, Government Code, is
2 amended by adding Section 402.031 to read as follows:

3 Sec. 402.031. HOMELAND SECURITY LAW ENFORCEMENT INTEGRITY
4 UNIT. (a) In this section, "law enforcement corruption" means the
5 commission of an offense in this state by an individual elected,
6 appointed, or employed to serve as a peace officer for a
7 governmental entity of this state under Article 2.12, Code of
8 Criminal Procedure, or by a federal law enforcement officer
9 performing duties in this state, under:

10 (1) Section 15.02, Penal Code, or an analogous federal
11 criminal law, if the object of the conspiracy involves the
12 manufacture or delivery of a controlled substance as described by
13 Chapter 481, Health and Safety Code, or an analogous federal
14 criminal law; or

15 (2) Section 71.02, Penal Code, or an analogous federal
16 criminal law.

17 (b) The homeland security law enforcement integrity unit is
18 created within the office of the attorney general to assist in the
19 enforcement of laws relating to law enforcement corruption in law
20 enforcement units that protect the state's homeland security and
21 border security. The unit shall serve as a clearinghouse for
22 information relating to the investigation and prosecution of law
23 enforcement corruption in this state.

24 (c) The homeland security law enforcement integrity unit
25 may:

26 (1) assist district attorneys and county attorneys in
27 the investigation and prosecution of law enforcement corruption;

1 (2) assist state agencies with the investigation of
2 complaints and administrative enforcement actions involving law
3 enforcement corruption, including the assessment of an
4 administrative penalty or other administrative sanction that may be
5 imposed in response to law enforcement corruption;

6 (3) assist the United States Department of Justice or
7 any other appropriate federal department or agency in the
8 investigation and prosecution of law enforcement corruption;

9 (4) assist federal agencies with the investigation of
10 complaints and administrative enforcement actions involving law
11 enforcement corruption, including the assessment of an
12 administrative penalty or other administrative sanction that may be
13 imposed in response to law enforcement corruption; and

14 (5) monitor the use of grants and other funds
15 allocated under Section 421.072.

16 (d) To the extent allowed by law, a state agency or local law
17 enforcement agency shall cooperate with the homeland security law
18 enforcement integrity unit by providing information requested by
19 the unit as necessary to carry out the purposes of this section.
20 Information disclosed under this subsection is confidential and not
21 subject to disclosure under Chapter 552.

22 SECTION 4. Section 418.042(a), Government Code, is amended
23 to read as follows:

24 (a) The division shall prepare and keep current a
25 comprehensive state emergency management plan. The plan may
26 include:

27 (1) provisions for prevention and minimization of

- 1 injury and damage caused by disaster;
- 2 (2) provisions for prompt and effective response to
3 disaster;
- 4 (3) provisions for emergency relief;
- 5 (4) provisions for energy emergencies;
- 6 (5) identification of areas particularly vulnerable
7 to disasters;
- 8 (6) recommendations for zoning, building
9 restrictions, and other land-use controls, safety measures for
10 securing mobile homes or other nonpermanent or semipermanent
11 structures, and other preventive and preparedness measures
12 designed to eliminate or reduce disasters or their impact;
- 13 (7) provisions for assistance to local officials in
14 designing local emergency management plans;
- 15 (8) authorization and procedures for the erection or
16 other construction of temporary works designed to protect against
17 or mitigate danger, damage, or loss from flood, fire, or other
18 disaster;
- 19 (9) preparation and distribution to the appropriate
20 state and local officials of state catalogs of federal, state, and
21 private assistance programs;
- 22 (10) organization of manpower and channels of
23 assistance;
- 24 (11) coordination of federal, state, and local
25 emergency management activities;
- 26 (12) coordination of the state emergency management
27 plan with the emergency management plans of the federal government;

1 (13) coordination of federal and state energy
2 emergency plans; ~~and~~

3 (14) the provision of funding to support the Texas
4 Data Exchange or any other similar comprehensive intelligence
5 database; and

6 (15) other necessary matters relating to disasters.

7 SECTION 5. Subchapter C, Chapter 418, Government Code, is
8 amended by adding Section 418.0431 to read as follows:

9 Sec. 418.0431. FUNDING OF CERTAIN DATABASES. The division:

10 (1) may provide funding to the Department of Public
11 Safety for the Texas Data Exchange or any other similar
12 comprehensive intelligence database; and

13 (2) shall, to any extent necessary, participate in the
14 transfer described by Section 421.0035(2) and the cooperation
15 described by Section 421.0035(3).

16 SECTION 6. Section 421.002, Government Code, is amended to
17 read as follows:

18 Sec. 421.002. STATE OFFICE OF HOMELAND SECURITY; HOMELAND
19 SECURITY STRATEGY. (a) The director of the State Office of
20 Homeland Security ~~[governor]~~ shall direct homeland security in this
21 state. The director is appointed by the governor with the advice
22 and consent of the senate and serves a two-year term expiring
23 February 1 of each odd-numbered year. The State Office of Homeland
24 Security is administratively attached to the office of the
25 governor.

26 (a-1) The governor ~~and~~ shall develop a statewide homeland
27 security strategy that improves the state's ability to:

- 1 (1) detect and deter threats to homeland security;
- 2 (2) respond to homeland security emergencies; and
- 3 (3) recover from homeland security emergencies.

4 (b) The State Office of Homeland Security [~~governor's~~
5 ~~homeland security strategy~~] shall coordinate homeland security
6 activities among and between local, state, and federal agencies and
7 the private sector.

8 (c) The governor's homeland security strategy [~~and~~] must
9 include specific plans for:

- 10 (1) intelligence gathering and analysis;
- 11 (2) information sharing;
- 12 (3) reducing the state's vulnerability to homeland
13 security emergencies;
- 14 (4) protecting critical infrastructure;
- 15 (5) protecting the state's international border,
16 ports, and airports;
- 17 (6) detecting, deterring, and defending against
18 terrorism, including cyber-terrorism and biological, chemical, and
19 nuclear terrorism;
- 20 (7) positioning equipment, technology, and personnel
21 to improve the state's ability to respond to a homeland security
22 emergency;
- 23 (8) establishing and directing the Texas Fusion
24 [~~Infrastructure Protection Communications~~] Center and giving the
25 center certain forms of authority to implement the governor's
26 homeland security strategy; [~~and~~]
- 27 (9) using technological resources to:

1 (A) facilitate the interoperability of
2 government technological resources, including data, networks, and
3 applications;

4 (B) coordinate the warning and alert systems of
5 state and local agencies;

6 (C) incorporate multidisciplinary approaches to
7 homeland security; and

8 (D) improve the security of governmental and
9 private sector information technology and information resources;
10 and

11 (10) creating and operating a multi-agency
12 coordination system as outlined in the federal Department of
13 Homeland Security publication "National Incident Management
14 System," published March 1, 2004.

15 (d) [~~e~~] The governor's homeland security strategy must
16 complement and operate in coordination with the federal homeland
17 security strategy.

18 SECTION 7. Subchapter A, Chapter 421, Government Code, is
19 amended by adding Section 421.0025 to read as follows:

20 Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border
21 Security Council consists of members appointed by the governor.

22 (a-1) At least one-third of the members appointed under
23 Subsection (a) must be residents of the Texas-Mexico border region,
24 as defined by Section 2056.002.

25 (b) The Border Security Council shall develop and recommend
26 to the State Office of Homeland Security performance standards,
27 reporting requirements, audit methods, and other procedures to

1 ensure that funds allocated by the State Office of Homeland
2 Security for purposes related to security at or near this state's
3 international border are used properly and that the recipients of
4 the funds are accountable for the proper use of the funds.

5 (c) The Border Security Council shall advise the State
6 Office of Homeland Security regarding the allocation of funds by
7 the office for purposes related to security at or near this state's
8 international border. Recommendations relating to the allocation
9 of those funds must be made by a majority of the members of the
10 council.

11 (d) The governor shall designate one member of the Border
12 Security Council as the chair. The chair shall arrange meetings of
13 the Border Security Council at times determined by the members of
14 the council.

15 (e) The meetings of the Border Security Council are subject
16 to the requirements of Chapter 551 to the same extent as similar
17 meetings of the Public Safety Commission. The plans and
18 recommendations of the Border Security Council are subject to the
19 requirements of Chapter 552 to the same extent as similar plans and
20 recommendations of the Department of Public Safety of the State of
21 Texas.

22 (f) Service on the Border Security Council by a state
23 officer or employee or by an officer or employee of a local
24 government is an additional duty of the member's office or
25 employment.

26 SECTION 8. Section 421.003, Government Code, is amended to
27 read as follows:

1 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION; DATABASE
2 MAINTENANCE. (a) The Department of Public Safety of the State of
3 Texas is:

4 (1) the repository in this state for the collection of
5 multijurisdictional criminal intelligence information that is
6 about terrorist activities or otherwise related to homeland
7 security activities; and

8 (2) the state agency that has sole [~~primary~~]
9 responsibility to analyze and disseminate that information.

10 (b) Notwithstanding Section 421.002 or any other law, the
11 Department of Public Safety of the State of Texas is the only state
12 agency or state governmental entity that is authorized to develop,
13 maintain, operate, and control access to the Texas Data Exchange or
14 any other similar comprehensive intelligence database.

15 SECTION 9. Subchapter A, Chapter 421, Government Code, is
16 amended by adding Section 421.0035 to read as follows:

17 Sec. 421.0035. CERTAIN COOPERATION REQUIRED. The governor
18 and the governor's office shall cooperate with the Department of
19 Public Safety to:

20 (1) transfer to the department control of the Texas
21 Data Exchange or any other similar comprehensive intelligence
22 database and any information contained in the Texas Data Exchange
23 or any other similar comprehensive intelligence database;

24 (2) transfer to the department any federal funds
25 received by the governor or the governor's office for the operation
26 or maintenance of the Texas Data Exchange or any other similar
27 comprehensive intelligence database; and

1 (3) ensure that the department receives any federal
2 funds received by this state for the operation or maintenance of the
3 Texas Data Exchange or any other similar comprehensive intelligence
4 database.

5 SECTION 10. Subchapter A, Chapter 421, Government Code, is
6 amended by adding Section 421.005 to read as follows:

7 Sec. 421.005. INTERIM COMMITTEE ON BORDER SECURITY. (a)
8 The interim committee on border security consists of:

9 (1) the chair of the House Committee on Border and
10 International Affairs or its successor in function;

11 (2) the chair of the House Committee on Defense
12 Affairs and State-Federal Relations or its successor in function;

13 (3) the chair of the House Committee on State Affairs
14 or its successor in function;

15 (4) the chair of the Senate Committee on International
16 Relations and Trade;

17 (5) the chair of the Senate Committee on State
18 Affairs;

19 (6) the chair of the Senate Committee on
20 Transportation and Homeland Security;

21 (7) two additional members of the house of
22 representatives appointed by the speaker of the house of
23 representatives; and

24 (8) two additional members of the senate appointed by
25 the lieutenant governor.

26 (b) The members of the interim committee appointed under
27 Subsections (a)(7) and (8) serve at the will of the appointing

1 officer.

2 (c) The speaker of the house of representatives and the
3 lieutenant governor shall each designate a co-chair from among the
4 committee members.

5 (d) The committee shall meet initially at the joint call of
6 the co-chairs and the committee shall subsequently hold meetings
7 and public hearings at the call of the co-chairs.

8 (e) The committee shall conduct an interim study of border
9 security issues in this state. The committee shall issue a report to
10 the legislature not later than December 1, 2008.

11 (f) This section expires January 1, 2009.

12 SECTION 11. Subchapter A, Chapter 421, Government Code, is
13 amended by adding Section 421.006 to read as follows:

14 Sec. 421.006. AUDIT BY STATE AUDITOR. The State Office of
15 Homeland Security, Texas Fusion Center, Border Security Council,
16 Texas Data Exchange, and other offices, agencies, and programs
17 under this chapter are subject to audit by the state auditor in
18 accordance with Chapter 321.

19 SECTION 12. Section 421.071, Government Code, is amended
20 to read as follows:

21 Sec. 421.071. COOPERATION AND ASSISTANCE; COMPLIANCE WITH
22 APPLICABLE LAW. (a) A state or local agency that performs a
23 homeland security activity or a nongovernmental entity that
24 contracts with a state or local agency to perform a homeland
25 security activity shall cooperate with and assist the office of the
26 governor, the Homeland Security Council, the Texas Fusion
27 [~~Infrastructure Protection Communications~~] Center, and the

1 National Infrastructure Protection Center in the performance of
2 their duties under this chapter and other state or federal law.

3 (b) A state governmental entity or political subdivision
4 may not adopt a rule, policy, or ordinance under which the state
5 governmental entity or political subdivision will:

6 (1) not enforce state or federal criminal law relating
7 to drugs, including Chapters 481 and 483, Health and Safety Code;

8 (2) refuse to cooperate with federal authorities in
9 enforcing 8 U.S.C. Section 1252c; or

10 (3) violate 8 U.S.C. Section 1324.

11 (c) If the attorney general determines that a state
12 governmental entity or political subdivision has violated
13 Subsection (b), the state governmental entity or political
14 subdivision shall promptly forfeit and repay to the appropriate
15 entity all funds granted to the state governmental entity or
16 political subdivision for purposes related to homeland security,
17 including border security. The attorney general shall stay the
18 duty to repay pending the outcome of an appeal under Subsection (d).

19 (d) Not later than the 21st day after the date of receiving
20 notice of the determination, a state governmental entity may appeal
21 a determination under Subsection (c) to a Travis County district
22 court and a political subdivision may appeal a determination under
23 Subsection (c) to a district court with jurisdiction in a county in
24 which the political subdivision is located.

25 SECTION 13. Section 421.072, Government Code, is amended by
26 amending Subsection (a) and adding Subsections (d) and (e) to read
27 as follows:

1 (a) The State Office of Homeland Security, with the advice
2 of the Border Security Council, [~~office of the governor~~] shall:

3 (1) allocate available federal and state grants and
4 other funding related to homeland security to state and local
5 agencies and defense base development authorities created under
6 Chapter 379B, Local Government Code, that perform homeland security
7 activities;

8 (2) periodically review the grants and other funding
9 for appropriateness and compliance;

10 (3) designate state administering agencies to
11 administer all grants and other funding to the state related to
12 homeland security; [~~and~~]

13 (4) measure the effectiveness of the homeland security
14 grants and other funding; and

15 (5) develop objective criteria to evaluate the use of
16 grants and other funds allocated to an entity under this section,
17 including taking into consideration:

18 (A) the number of officers and employees of the
19 entity;

20 (B) the size and population of the geographic
21 area under the jurisdiction of the entity;

22 (C) the size of the border area for which the
23 entity is responsible, if applicable;

24 (D) the number of arrests made by the entity as a
25 result of the funding, if applicable; and

26 (E) the number of prosecutions made by the entity
27 as a result of the funding, if applicable.

1 services for homeland security or law enforcement purposes must
2 allow a business entity to substitute the qualifications of its
3 executive officers or managers for the qualifications required of
4 the business entity in the request for proposals.

5 SECTION 17. Section 370.003, Local Government Code, is
6 amended to read as follows:

7 Sec. 370.003. MUNICIPAL OR COUNTY POLICY REGARDING
8 [~~ENFORCEMENT OF~~] DRUG LAWS OR CERTAIN LAWS RELATING TO IMMIGRATION.

9 The governing body of a municipality, the commissioners court of a
10 county, or a sheriff, municipal police department, municipal
11 attorney, county attorney, district attorney, or criminal district
12 attorney may not adopt a policy under which the entity will:

13 (1) not [~~fully~~] enforce criminal laws relating to
14 drugs, including Chapters 481 and 483, Health and Safety Code, and
15 federal law;

16 (2) refuse to take an action that is authorized under 8
17 U.S.C. Section 1252c and permitted under state law; or

18 (3) violate 8 U.S.C. Section 1324.

19 SECTION 18. Chapter 370, Local Government Code, is amended
20 by adding Section 370.004 to read as follows:

21 Sec. 370.004. PERFORMANCE OF IMMIGRATION OFFICER
22 FUNCTIONS. Notwithstanding any other law, a political subdivision
23 of this state may enter into an agreement under Section 287(g),
24 Immigration and Nationality Act (8 U.S.C. Section 1357(g)), to
25 perform a function of an immigration officer.

26 SECTION 19. The heading to Chapter 370, Local Government
27 Code, is amended to read as follows:

1 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~
2 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY AFFECTING MORE THAN ONE TYPE OF
3 LOCAL GOVERNMENT

4 SECTION 20. Article 2.13, Code of Criminal Procedure, is
5 amended by adding Subsection (d) to read as follows:

6 (d) Neither a state governmental entity nor a municipality
7 may adopt a rule, policy, or ordinance, or follow or establish a
8 commonly accepted practice, that requires a peace officer to
9 violate a state or federal criminal law.

10 SECTION 21. Article 61.02(c), Code of Criminal Procedure,
11 is amended to read as follows:

12 (c) Criminal information collected under this chapter
13 relating to a criminal street gang must:

14 (1) be relevant to the identification of an
15 organization that is reasonably suspected of involvement in
16 criminal activity; and

17 (2) consist of:

18 (A) a judgment under any law that includes, as a
19 finding or as an element of a criminal offense, participation in a
20 criminal street gang;

21 (B) a self-admission by the individual of
22 criminal street gang membership that is made during a judicial
23 proceeding; or

24 (C) any two of the following:

25 (i) [~~(A)~~] a self-admission by the
26 individual of criminal street gang membership that is not made
27 during a judicial proceeding;

1 (ii) [~~(B)~~] an identification of the
2 individual as a criminal street gang member by a reliable informant
3 or other individual;

4 (iii) [~~(C)~~] a corroborated identification
5 of the individual as a criminal street gang member by an informant
6 or other individual of unknown reliability;

7 (iv) [~~(D)~~] evidence that the individual
8 frequents a documented area of a criminal street gang and[~~7~~]
9 associates with known criminal street gang members;

10 (v) evidence that the individual[~~7~~, ~~and~~]
11 uses, in more than an incidental manner, criminal street gang
12 dress, hand signals, tattoos, or symbols, including expressions of
13 letters, numbers, words, or marks, regardless of the format or
14 medium in which the symbols are displayed, that are associated with
15 a criminal street gang that operates in an area frequented by the
16 individual and described by Subparagraph (iv); or

17 (vi) [~~(E)~~] evidence that the individual has
18 been arrested or taken into custody with known criminal street gang
19 members for an offense or conduct consistent with criminal street
20 gang activity.

21 SECTION 22. Article 61.06(c), Code of Criminal Procedure,
22 is amended to read as follows:

23 (c) In determining whether information is required to be
24 removed from an intelligence database under Subsection (b), the
25 three-year period does not include any period during which the
26 individual who is the subject of the information is:

27 (1) confined in a correctional facility operated by or

1 under contract with the [~~institutional division or the state jail~~
2 ~~division of the~~] Texas Department of Criminal Justice;

3 (2) committed to a secure correctional facility
4 operated by or under contract with the Texas Youth Commission, as
5 defined by Section 51.02, Family Code; or

6 (3) confined in a county jail or a facility operated by
7 a juvenile board in lieu of being confined in a correctional
8 facility operated by or under contract with the Texas Department of
9 Criminal Justice or being committed to a secure correctional
10 facility operated by or under contract with the Texas Youth
11 Commission.

12 SECTION 23. Chapter 61, Code of Criminal Procedure, is
13 amended by adding Article 61.075 to read as follows:

14 Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL
15 INFORMATION. (a) A person or the parent or guardian of a child may
16 request a law enforcement agency to determine whether the agency
17 has collected or is maintaining under this chapter criminal
18 information relating solely to the person or child. The law
19 enforcement agency shall respond to the request not later than the
20 10th business day after the date the agency receives the request.

21 (b) Before responding to a request under Subsection (a), a
22 law enforcement agency may require reasonable written verification
23 of the identity of the person making the request and the
24 relationship between the parent or guardian and the child, if
25 applicable, including written verification of an address, date of
26 birth, driver's license number, state identification card number,
27 or social security number.

1 SECTION 24. Section 201.613, Transportation Code, is
2 amended to read as follows:

3 Sec. 201.613. ONE-STOP BORDER INSPECTION FACILITIES
4 [~~STATIONS~~]. (a) The department shall erect and maintain border
5 [~~choose a location for an~~] inspection facilities [~~station~~] along a
6 major highway at or near a border crossing from Mexico in the Pharr
7 [~~Brownsville~~], [~~in~~] Laredo, and [~~in~~] El Paso districts for the
8 inspection of motor vehicles for compliance with federal and state
9 commercial motor vehicle regulations [~~so that all federal, state,~~
10 ~~and municipal agencies that regulate the passage of persons or~~
11 ~~vehicles across the border at that border crossing may be located in~~
12 ~~one place~~].

13 (b) If a facility that serves a bridge that had more than
14 900,000 commercial border crossings during the state fiscal year
15 ending August 31, 2002, is to be located in a municipality or a
16 municipality's extraterritorial jurisdiction, the municipality may
17 choose the location of the facility within the municipality or the
18 municipality's extraterritorial jurisdiction. The municipality
19 shall choose a location before the later of the 180th day after:

20 (1) the date the department makes a request for a
21 location; or

22 (2) the effective date of the Act enacting this
23 provision.

24 (c) Only one inspection facility shall be constructed in a
25 municipality described by this subsection.

26 (d) In determining the location for a border inspection
27 facility under Subsection (b), the municipality shall:

1 (1) obtain and pay for an independent study completed
2 by a university that conducts transportation studies or any other
3 entity that conducts transportation studies to identify commercial
4 truck traffic patterns for the location at which the facility is to
5 be located to ensure that the location has adequate capacity to
6 conduct a sufficient number of meaningful vehicle safety
7 inspections in compliance with 49 U.S.C. Section 13902; and

8 (2) choose a location that does not impair the receipt
9 of federal or state funds for implementation of this section.

10 (e) To the extent the department considers appropriate to
11 expedite commerce, the department shall provide for implementation
12 by the appropriate agencies of the use of Intelligent
13 Transportation Systems for Commercial Vehicle Operations (ITS/CVO)
14 in:

15 (1) any new commercial motor vehicle inspection
16 facility constructed; and

17 (2) any existing facility to which this section
18 applies.

19 (f) Implementation of systems under Subsection (e) must be
20 based on the Texas ITS/CVO business plan prepared by the
21 department, the Department of Public Safety, and the comptroller.
22 The department shall coordinate with other state and federal
23 transportation officials to develop interoperability standards for
24 the systems.

25 (g) In implementing systems under Subsection (e) in the
26 construction of a facility, the department to the greatest extent
27 possible shall:

1 (1) enhance efficiency and reduce complexity for motor
2 carriers by providing:

3 (A) a single point of contact between carriers
4 and state and federal officials regulating the carriers; and

5 (B) a single point of information, available to
6 wireless access, about federal and state regulatory and enforcement
7 requirements;

8 (2) prevent duplication of state and federal
9 procedures and locations for regulatory and enforcement
10 activities, including consolidation of collection of applicable
11 fees;

12 (3) link information systems of the department, the
13 Department of Public Safety, the comptroller, and, to the extent
14 possible, the United States Department of Transportation and other
15 appropriate regulatory and enforcement entities; and

16 (4) take other necessary action to:

17 (A) facilitate the flow of commerce;

18 (B) assist federal interdiction efforts;

19 (C) protect the environment by reducing idling
20 time of commercial motor vehicles at the facilities;

21 (D) prevent highway damage caused by overweight
22 commercial motor vehicles; and

23 (E) seek federal funds to assist in the
24 implementation of this section. [~~The department shall establish~~
25 and maintain an inspection station at the locations chosen in
26 Subsection (a) only if the federal agencies involved in the
27 regulation of the passage of persons or vehicles at that border

1 ~~crossing agree to the design of the facility at each location and~~
2 ~~agree to use the facility at each location if built.~~

3 ~~[(c) The department may enter into agreements with federal,~~
4 ~~state, and municipal agencies to accomplish the purpose of this~~
5 ~~section. An agreement may involve the lease of office space at the~~
6 ~~inspection station by the department to the agency.]~~

7 SECTION 25. The House Committee on Corrections may conduct
8 a study to determine whether it would add efficiency to the state's
9 criminal justice system, in terms of time and money, for this state
10 or for certain political subdivisions of this state to seek one or
11 more agreements under Section 287(g), Immigration and Nationality
12 Act (8 U.S.C. Section 1357(g)).

13 SECTION 26. As soon as practicable after the effective date
14 of this Act, the governor shall appoint the director of the State
15 Office of Homeland Security to a term expiring February 1, 2009.

16 SECTION 27. Not later than December 1, 2007, the attorney
17 general shall establish the law enforcement integrity unit under
18 Section 402.031, Government Code, as added by this Act.

19 SECTION 28. The Texas Department of Transportation shall
20 spend the money appropriated during the 76th Legislature for
21 Section 201.613, Transportation Code, as added by Chapter 1527,
22 Acts of the 76th Legislature, Regular Session, 1999, or money
23 received from the federal government to establish the border
24 inspection facilities under Section 201.613, Transportation Code,
25 as amended by this Act.

26 SECTION 29. (a) Not later than September 1, 2008, the
27 Border Security Council, in consultation with any relevant agency,

1 shall prepare, issue, and distribute to the governor and each
2 member of the legislature a report:

3 (1) that provides the number of victims of human
4 trafficking that have crossed the border, annually since the year
5 2000, as defined by Chapter 20A, Penal Code, with at least the
6 following information:

7 (A) the age, gender, and nationality of the
8 victims;

9 (B) the types of services provided to the
10 victims, if any; and

11 (C) the agencies that provided services to
12 victims;

13 (2) outlining how existing laws and rules concerning
14 victims and witnesses address or fail to address the needs of
15 victims of human trafficking; and

16 (3) recommending areas of improvement and
17 modifications in existing laws and rules.

18 (b) Not later than September 1, 2008, the Border Security
19 Council, in consultation with any relevant agency, shall prepare,
20 issue, and distribute to the governor and each member of the
21 legislature a report:

22 (1) outlining how existing social service programs
23 address or fail to address the needs of victims of human
24 trafficking;

25 (2) with respect to those needs, outlining the
26 interplay of existing social service programs with federally funded
27 victim service programs; and

1 (3) recommending areas of improvement and
2 modifications in existing social service programs.

3 SECTION 30. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2007.