

BILL ANALYSIS

Senate Research Center

S.B. 530
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Transportation & Homeland Security
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Code of Criminal Procedure grants several investigatory agents of federal departments the designation of special investigators in Texas. This designation gives certain federal criminal investigators the powers of arrest, search, and seizure while performing their duties in Texas. Currently, the designation of special investigator is extended to the agents of eleven federal agencies, including the Federal Bureau of Investigation (FBI), the United States Secret Service, the Bureau of Immigration and Customs Enforcement (ICE), the Drug Enforcement Administration (DEA), and the United States Marshals Service. However, agents of the Social Security Administration, Office of the Inspector General (SSA/OIG) are not among this list.

SSA/OIG agents discover fraudulent receipt of food stamps, Medicaid benefits, Medicare premium payments, and other needs-based aid administered by the Texas Health and Human Services Commission.

Typically, investigations by SSA/OIG agents lead to prosecutions by United States Attorneys (U.S. attorney). However, if a case arises with joint state and federal jurisdiction and a U.S. attorney declines to prosecute, the information gathered during the investigation can be turned over to a local or state prosecutor. Because SSA/OIG agents do not have the special investigator designation, local law enforcement officials must be brought into the investigation so that the information is guaranteed to be usable by the prosecutor. Local law enforcement officials are then required to swear an affidavit for an arrest warrant or testify before an indicting grand jury, even though they have not been a part of the investigation.

S.B. 530 amends Article 2.122(a), Code of Criminal Procedure, to add agents of SSA/OIG to the list of federal agencies whose agents have the designation of special investigator. S.B. 530 also includes language to ensure that the agencies already granted designation of special investigators are identified correctly to reflect updated agency names.

S.B. 530 amends current law relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Social Security Administration and to updating certain references related to the grant authority to other federal law enforcement personnel.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 2.122(a) and (c), Code of Criminal Procedure, as follows:

(a) Prohibits the following named criminal investigators of the United States from being deemed peace officers, but requires that they have the powers of arrest, search, and seizure under the laws of this state as to felony offenses only:

(1)-(3) Makes no changes to these subdivisions;

- (4) Special Agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives;
- (5) Special Agents of the United States Drug Enforcement Administration, rather than the Federal Drug Enforcement Agency;
- (6) Inspectors of the United States Postal Inspection Service, rather than the United States Postal Service;
- (7) Special Agents of the Criminal Investigation Division of the Internal Revenue Service;
- (8)-(9) Makes no changes to these subdivisions;
- (10) Rdesignates existing Subdivision (11) as Subdivision (10);
- (11) Special Agents of the Treasury Inspector General for Tax Administration; and
- (12) Special Agents of the Office of Inspector General of the United States Social Security Administration.

Deletes existing text including in the list above Inspectors of the Internal Security Division of the Internal Revenue Service, and Special Agents of the United States Citizenship and Immigration Services. Makes nonsubstantive changes.

(c) Provides that a Customs and Border Protection Officer or Border Patrol Agent of the United States Customs and Border Protection or an immigration enforcement agent, or deportation officer of the Department of Homeland Security is not a peace officer under the laws of this state but, on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic check point, has the authority to detain a person pending transfer without unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in conduct that is a violation of Section 49.02, 49.04, 49.07, or 49.08, Penal Code, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding. Makes a nonsubstantive change.

SECTION 2. Effective date: upon passage or September 1, 2011.