

By: Larson

H.B. No. 5

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Texas Liberty Preservation Act; providing
3 penalties.

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

5 SECTION 1. (a) This Act shall be known as the Texas Liberty
6 Preservation Act.

7 (b) The legislature finds that:

8 (1) the Tenth Amendment to the United States
9 Constitution authorizes the United States federal government to
10 exercise only those powers specifically delegated to it under
11 Article I, Section 8, United States Constitution;

12 (2) the guaranty of the constitutional limitations on
13 federal power is a matter of contract between the several states,
14 including the State of Texas, and the federal government at the time
15 the United States Constitution was ratified and subsequently
16 amended by the Bill of Rights;

17 (3) Article VI, United States Constitution, provides
18 that the laws of the United States federal government are the
19 supreme law of the land only if those laws are adopted in accordance
20 with the powers delegated to the federal government in the United
21 States Constitution;

22 (4) the President of the United States has asserted
23 that the Authorization for the Use of Military Force (Pub. L. No.
24 107-40), enacted in 2001, authorizes the president to indefinitely

1 detain, without charge, any person, including a citizen of the
2 United States or a lawful resident alien, regardless of whether the
3 person is apprehended inside or outside the borders of the United
4 States;

5 (5) Sections 1021 and 1022 of the National Defense
6 Authorization Act for Fiscal Year 2012 (Pub. L. No. 112-81)
7 authorize:

8 (A) indefinite detention of persons apprehended
9 within the United States without charge or trial;

10 (B) prosecution by military tribunals under the
11 law of war for persons apprehended within the United States; and

12 (C) transfer of persons apprehended within the
13 United States to foreign jurisdictions;

14 (6) in authorizing the actions described by
15 Subdivision (5) of this subsection, Sections 1021 and 1022 of the
16 National Defense Authorization Act for Fiscal Year 2012 (Pub. L.
17 No. 112-81) are inimical to the liberty, security, and well-being
18 of the citizens of the State of Texas by violating:

19 (A) the Texas Constitution;

20 (B) the limits of federal power authorized by
21 Article I, Section 8, United States Constitution;

22 (C) the legal doctrine of Posse Comitatus under
23 18 U.S.C. Section 1385 by authorizing the armed forces of the United
24 States to police the United States; and

25 (D) the following provisions of the United States
26 Constitution:

27 (i) Article I, Section 9, Clause 2

1 (ensuring the right to seek a habeas corpus);
2 (ii) the First Amendment (ensuring the
3 right to petition the federal government for the redress of
4 grievances);
5 (iii) the Fourth Amendment (ensuring the
6 right to be free from unreasonable search and seizure);
7 (iv) the Fifth Amendment (requiring capital
8 or infamous crimes to be brought before a grand jury before charging
9 the defendant and prohibiting deprivation of life, liberty, or
10 property without due process of law);
11 (v) the Sixth Amendment (ensuring the right
12 to a speedy trial by an impartial jury in the state or district
13 where the offense was alleged to have been committed, the right to
14 be informed of the nature and cause of accusations and charges
15 levied, the right to retain legal counsel, and the right to confront
16 witnesses);
17 (vi) the Eighth Amendment (prohibiting
18 excessive bail and fines and prohibiting cruel and unusual
19 punishment); and
20 (vii) the Fourteenth Amendment
21 (prohibiting deprivation of life, liberty, or property without due
22 process of law); and
23 (7) the actions described by Subdivision (5) of this
24 subsection as authorized by Sections 1021 and 1022 of the National
25 Defense Authorization Act for Fiscal Year 2012 (Pub. L. No.
26 112-81), and the enforcement of those actions, are illegal within
27 this state.

1 SECTION 2. Chapter 421, Government Code, is amended by
2 adding Subchapter G to read as follows:

3 SUBCHAPTER G. TEXAS LIBERTY PRESERVATION ACT

4 Sec. 421.101. CERTAIN PORTIONS OF THE FEDERAL NATIONAL
5 DEFENSE AUTHORIZATION ACT OF 2012 INVALID. Sections 1021 and 1022
6 of the National Defense Authorization Act for Fiscal Year 2012
7 (Pub. L. No. 112-81) violate portions of federal law, the United
8 States Constitution, and the Texas Constitution and, as such, are
9 invalid and illegal in this state.

10 Sec. 421.102. POLICY; VIOLATION OF SUBCHAPTER. It is the
11 policy of this state to refuse to provide material support for or to
12 participate in any way with the implementation within this state of
13 Sections 1021 and 1022 of the National Defense Authorization Act
14 for Fiscal Year 2012 (Pub. L. No. 112-81). Any act to enforce or
15 attempt to enforce those laws is in violation of this subchapter.

16 Sec. 421.103. OFFENSES; PENALTIES. (a) A person who is an
17 official, agent, or employee of the United States or an employee of
18 a corporation providing services to the United States commits an
19 offense if the person enforces or attempts to enforce a statute, a
20 rule or regulation, an order, or any law of the United States in
21 violation of this subchapter.

22 (b) An offense under Subsection (a) is a Class A misdemeanor
23 punishable by confinement for a term not to exceed one year, a fine
24 of not more than \$10,000, or both the confinement and the fine.

25 (c) A person who is a public officer or employee of this
26 state commits an offense if that person enforces or attempts to
27 enforce a statute, a rule or regulation, an order, or any law of the

1 United States in violation of this subchapter.

2 (d) An offense under Subsection (c) is a Class B misdemeanor
3 punishable by confinement for a term not to exceed 180 days, a fine
4 of not more than \$5,000, or both the confinement and the fine.

5 Sec. 421.104. REPORT. The Texas Department of Public
6 Safety shall report to the governor and the legislature any attempt
7 by the federal government to implement Section 1021 or 1022 of the
8 National Defense Authorization Act for Fiscal Year 2012 (Pub. L.
9 No. 112-81) through the Texas Department of Public Safety or
10 another state agency.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect on the 91st day after the last day of the
16 legislative session.