

By: Bonnen of Brazoria, Phillips, Oliveira,
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H.B. No. 11

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the powers and duties of the Texas Department of Public
3 Safety and the investigation, prosecution, punishment, and
4 prevention of certain offenses; creating an offense and increasing
5 a criminal penalty.

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

7 SECTION 1. Article 2.12, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
10 officers:

11 (1) sheriffs, their deputies, and those reserve
12 deputies who hold a permanent peace officer license issued under
13 Chapter 1701, Occupations Code;

14 (2) constables, deputy constables, and those reserve
15 deputy constables who hold a permanent peace officer license issued
16 under Chapter 1701, Occupations Code;

17 (3) marshals or police officers of an incorporated
18 city, town, or village, and those reserve municipal police officers
19 who hold a permanent peace officer license issued under Chapter
20 1701, Occupations Code;

21 (4) rangers, ~~and~~ officers, and members of the
22 reserve officer corps commissioned by the Public Safety Commission
23 and the Director of the Department of Public Safety;

24 (5) investigators of the district attorneys', criminal

1 district attorneys', and county attorneys' offices;

2 (6) law enforcement agents of the Texas Alcoholic
3 Beverage Commission;

4 (7) each member of an arson investigating unit
5 commissioned by a city, a county, or the state;

6 (8) officers commissioned under Section [37.081](#),
7 Education Code, or Subchapter E, Chapter 51, Education Code;

8 (9) officers commissioned by the General Services
9 Commission;

10 (10) law enforcement officers commissioned by the
11 Parks and Wildlife Commission;

12 (11) airport police officers commissioned by a city
13 with a population of more than 1.18 million located primarily in a
14 county with a population of 2 million or more that operates an
15 airport that serves commercial air carriers;

16 (12) airport security personnel commissioned as peace
17 officers by the governing body of any political subdivision of this
18 state, other than a city described by Subdivision (11), that
19 operates an airport that serves commercial air carriers;

20 (13) municipal park and recreational patrolmen and
21 security officers;

22 (14) security officers and investigators commissioned
23 as peace officers by the comptroller;

24 (15) officers commissioned by a water control and
25 improvement district under Section [49.216](#), Water Code;

26 (16) officers commissioned by a board of trustees
27 under Chapter 54, Transportation Code;

1 (17) investigators commissioned by the Texas Medical
2 Board;

3 (18) officers commissioned by:

4 (A) the board of managers of the Dallas County
5 Hospital District, the Tarrant County Hospital District, the Bexar
6 County Hospital District, or the El Paso County Hospital District
7 under Section [281.057](#), Health and Safety Code;

8 (B) the board of directors of the Ector County
9 Hospital District under Section [1024.117](#), Special District Local
10 Laws Code; and

11 (C) the board of directors of the Midland County
12 Hospital District of Midland County, Texas, under Section [1061.121](#),
13 Special District Local Laws Code;

14 (19) county park rangers commissioned under
15 Subchapter E, Chapter 351, Local Government Code;

16 (20) investigators employed by the Texas Racing
17 Commission;

18 (21) officers commissioned under Chapter 554,
19 Occupations Code;

20 (22) officers commissioned by the governing body of a
21 metropolitan rapid transit authority under Section [451.108](#),
22 Transportation Code, or by a regional transportation authority
23 under Section [452.110](#), Transportation Code;

24 (23) investigators commissioned by the attorney
25 general under Section [402.009](#), Government Code;

26 (24) security officers and investigators commissioned
27 as peace officers under Chapter 466, Government Code;

- 1 (25) an officer employed by the Department of State
2 Health Services under Section [431.2471](#), Health and Safety Code;
- 3 (26) officers appointed by an appellate court under
4 Subchapter F, Chapter 53, Government Code;
- 5 (27) officers commissioned by the state fire marshal
6 under Chapter 417, Government Code;
- 7 (28) an investigator commissioned by the commissioner
8 of insurance under Section [701.104](#), Insurance Code;
- 9 (29) apprehension specialists and inspectors general
10 commissioned by the Texas Juvenile Justice Department as officers
11 under Sections [242.102](#) and [243.052](#), Human Resources Code;
- 12 (30) officers appointed by the inspector general of
13 the Texas Department of Criminal Justice under Section [493.019](#),
14 Government Code;
- 15 (31) investigators commissioned by the Texas
16 Commission on Law Enforcement under Section [1701.160](#), Occupations
17 Code;
- 18 (32) commission investigators commissioned by the
19 Texas Private Security Board under Section [1702.061](#) [~~[1702.061\(f\)](#)~~],
20 Occupations Code;
- 21 (33) the fire marshal and any officers, inspectors, or
22 investigators commissioned by an emergency services district under
23 Chapter 775, Health and Safety Code;
- 24 (34) officers commissioned by the State Board of
25 Dental Examiners under Section [254.013](#), Occupations Code, subject
26 to the limitations imposed by that section;
- 27 (35) investigators commissioned by the Texas Juvenile

1 Justice Department as officers under Section 221.011, Human
2 Resources Code; and

3 (36) the fire marshal and any related officers,
4 inspectors, or investigators commissioned by a county under
5 Subchapter B, Chapter 352, Local Government Code.

6 SECTION 2. Section 4, Article 18.20, Code of Criminal
7 Procedure, is amended to read as follows:

8 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE
9 AUTHORIZED. A judge of competent jurisdiction may issue an order
10 authorizing interception of wire, oral, or electronic
11 communications only if the prosecutor applying for the order shows
12 probable cause to believe that the interception will provide
13 evidence of the commission of:

14 (1) a felony under Section 19.02, 19.03, or 43.26,
15 Penal Code;

16 (2) a felony under:

17 (A) Chapter 481, Health and Safety Code, other
18 than felony possession of marihuana;

19 (B) Section 485.032, Health and Safety Code; or

20 (C) Chapter 483, Health and Safety Code;

21 (3) an offense under Section 20.03 or 20.04, Penal
22 Code;

23 (4) an offense under Chapter 20A, Penal Code;

24 (5) an offense under Chapter 34, Penal Code, if the
25 criminal activity giving rise to the proceeds involves the
26 commission of an offense under Title 5, Penal Code, or an offense
27 under federal law or the laws of another state containing elements

1 that are substantially similar to the elements of an offense under
2 Title 5;

3 (6) an offense under Section 38.11, Penal Code; [~~or~~]

4 (7) an offense under Section 43.04 or 43.05, Penal
5 Code; or

6 (8) an attempt, conspiracy, or solicitation to commit
7 an offense listed in this section.

8 SECTION 3. Article 59.01(2), Code of Criminal Procedure, as
9 amended by Chapters 427 (S.B. 529) and 1357 (S.B. 1451), Acts of the
10 83rd Legislature, Regular Session, 2013, is reenacted and amended
11 to read as follows:

12 (2) "Contraband" means property of any nature,
13 including real, personal, tangible, or intangible, that is:

14 (A) used in the commission of:

15 (i) any first or second degree felony under
16 the Penal Code;

17 (ii) any felony under Section 15.031(b),
18 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
19 33A, or 35, Penal Code;

20 (iii) any felony under The Securities Act
21 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

22 (iv) any offense under Chapter 49, Penal
23 Code, that is punishable as a felony of the third degree or state
24 jail felony, if the defendant has been previously convicted three
25 times of an offense under that chapter;

26 (B) used or intended to be used in the commission
27 of:

- 1 (i) any felony under Chapter 481, Health
2 and Safety Code (Texas Controlled Substances Act);
- 3 (ii) any felony under Chapter 483, Health
4 and Safety Code;
- 5 (iii) a felony under Chapter 151, Finance
6 Code;
- 7 (iv) any felony under Chapter 34, Penal
8 Code;
- 9 (v) a Class A misdemeanor under Subchapter
10 B, Chapter 365, Health and Safety Code, if the defendant has been
11 previously convicted twice of an offense under that subchapter;
- 12 (vi) any felony under Chapter 32, Human
13 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
14 involves the state Medicaid program;
- 15 (vii) a Class B misdemeanor under Chapter
16 522, Business & Commerce Code;
- 17 (viii) a Class A misdemeanor under Section
18 [306.051](#), Business & Commerce Code;
- 19 (ix) any offense under Section [42.10](#), Penal
20 Code;
- 21 (x) any offense under Section [46.06\(a\)\(1\)](#)
22 or [46.14](#), Penal Code;
- 23 (xi) any offense under Chapter 71, Penal
24 Code;
- 25 (xii) any offense under Section [20.05](#) or
26 [20.06](#), Penal Code; or
- 27 (xiii) [~~(xiv)~~] an offense under Section

1 326.002, Business & Commerce Code;

2 (C) the proceeds gained from the commission of a
3 felony listed in Paragraph (A) or (B) of this subdivision, a
4 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of
5 this subdivision, or a crime of violence;

6 (D) acquired with proceeds gained from the
7 commission of a felony listed in Paragraph (A) or (B) of this
8 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
9 or (xi) of this subdivision, or a crime of violence;

10 (E) used to facilitate or intended to be used to
11 facilitate the commission of a felony under Section 15.031 or
12 43.25, Penal Code; or

13 (F) used to facilitate or intended to be used to
14 facilitate the commission of a felony under Section 20A.02 or
15 Chapter 43, Penal Code.

16 SECTION 4. Section 411.0043, Government Code, is amended to
17 read as follows:

18 Sec. 411.0043. TECHNOLOGY POLICY; REVIEW. (a) The
19 commission shall implement a policy requiring the department to use
20 appropriate technological solutions to improve the department's
21 ability to perform its functions. The policy must ensure that the
22 public is able to interact with the department on the Internet.

23 (b) The department shall periodically:

24 (1) review the department's existing information
25 technology system to determine whether:

26 (A) the system's security should be upgraded; and

27 (B) the system provides the department with the

1 best ability to monitor and investigate criminal activity on the
2 Internet; and

3 (2) make any necessary improvements to the
4 department's information technology system.

5 SECTION 5. Subchapter A, Chapter 411, Government Code, is
6 amended by adding Section 411.0101 to read as follows:

7 Sec. 411.0101. ASSISTANCE TO CERTAIN LOCAL LAW ENFORCEMENT
8 AGENCIES ALONG TEXAS-MEXICO BORDER. In addition to any other
9 department operations in a county along the Texas-Mexico border,
10 the department shall provide assistance with offenses punishable as
11 a third degree felony or higher to a county or municipal law
12 enforcement agency in a county along the Texas-Mexico border on a
13 request from the law enforcement agency for assistance. The
14 regional commander has discretion to allocate department resources
15 as necessary to meet the department's objectives.

16 SECTION 6. Subchapter A, Chapter 411, Government Code, is
17 amended by adding Section 411.0163 to read as follows:

18 Sec. 411.0163. HIRING OFFICERS WITH PREVIOUS LAW
19 ENFORCEMENT EXPERIENCE. Notwithstanding any other provision of
20 law, the department may, at the time a commissioned officer is
21 hired, elect to credit up to four years of experience as a peace
22 officer in the state as years of service for the purpose of
23 calculating the officer's salary under Schedule C. All officers are
24 subject to the one-year probationary period under Section
25 411.007(g) notwithstanding the officer's rank or salary
26 classification.

27 SECTION 7. Subchapter A, Chapter 411, Government Code, is

1 amended by adding Section 411.0164 to read as follows:

2 Sec. 411.0164. 50-HOUR WORK WEEK FOR COMMISSIONED OFFICERS
3 ASSIGNED TO THE TEXAS-MEXICO BORDER REGION. Notwithstanding any
4 other law, the department may implement a 10-hour work day and
5 50-hour work week for commissioned officers of the department
6 assigned to a department region that includes counties along the
7 Texas-Mexico border.

8 SECTION 8. Subchapter A, Chapter 411, Government Code, is
9 amended by adding Section 411.0165 to read as follows:

10 Sec. 411.0165. VETERAN APPLICANTS FOR TROOPER TRAINING.
11 The department may accept a person applying to the department's
12 trooper trainee academy if the person:

13 (1) has served four or more years in the United States
14 armed forces as a member of the military police or other security
15 force and received an honorable discharge; and

16 (2) meets all other department requirements for a
17 commissioned officer.

18 SECTION 9. Subchapter A, Chapter 411, Government Code, is
19 amended by adding Sections 411.0208 and 411.0209 to read as
20 follows:

21 Sec. 411.0208. RESERVE OFFICER CORPS. (a) The commission
22 may provide for the establishment of a reserve officer corps
23 consisting of retired or previously commissioned officers of the
24 department who retired or resigned in good standing.

25 (b) The commission shall establish qualifications and
26 standards of training for members of the reserve officer corps.

27 (c) The commission may limit the size of the reserve officer

1 corps.

2 (d) The director shall appoint the members of the reserve
3 officer corps. Members serve at the director's discretion.

4 (e) The director may call the reserve officer corps into
5 service at any time the director considers it necessary to have
6 additional officers to assist the department in conducting
7 background investigations, sex offender compliance checks, and
8 other duties as determined necessary by the director.

9 Sec. 411.0209. DEPARTMENT ASSISTANCE AT INTERNATIONAL
10 BORDER CHECKPOINTS. (a) To prevent the unlawful transfer of
11 contraband from this state to the United Mexican States and other
12 unlawful activity, the department shall conduct a study concerning
13 the feasibility of providing to federal authorities and to local
14 law enforcement authorities working with those federal authorities
15 at international border checkpoints assistance in the interdiction
16 of weapons, bulk currency, stolen vehicles, and other contraband,
17 and of fugitives, being smuggled into the United Mexican States.
18 The department shall also study whether the establishment of
19 international border checkpoints will have a negative impact on
20 toll revenues.

21 (b) The department may share with the federal government the
22 cost of staffing any international border checkpoints for the
23 purposes described by this section.

24 (c) The director and applicable local law enforcement
25 authorities shall adopt procedures as necessary to administer this
26 section.

27 SECTION 10. Subchapter D, Chapter 411, Government Code, is

1 amended by adding Section 411.054 to read as follows:

2 Sec. 411.054. CRIME STATISTICS REPORTING. (a) Each local
3 law enforcement agency shall:

4 (1) implement an incident-based reporting system that
5 meets the reporting requirements of the National Incident-Based
6 Reporting System of the Uniform Crime Reporting Program of the
7 Federal Bureau of Investigation; and

8 (2) use the system described by Subdivision (1) to
9 submit to the department information and statistics concerning
10 criminal offenses committed in the jurisdiction of the local law
11 enforcement agency.

12 (b) The department shall adopt rules to implement this
13 section, including rules prescribing:

14 (1) the form and manner of the submission of
15 information and statistics; and

16 (2) the frequency of reporting.

17 (c) Notwithstanding any other law, a local law enforcement
18 agency that is not in compliance with this section and that receives
19 grant funds from the department or the criminal justice division of
20 the governor's office may only use those funds to come into
21 compliance with this section.

22 (d) A local law enforcement agency is not required to comply
23 with this section before September 1, 2019.

24 (e) Subsection (d) and this subsection expire September 1,
25 2019.

26 SECTION 11. Chapter 411, Government Code, is amended by
27 adding Subchapter P to read as follows:

1 SUBCHAPTER P. STATE LAW ENFORCEMENT OPERATIONS OVERSIGHT COMMITTEE

2 Sec. 411.431. DEFINITIONS. In this subchapter:

3 (1) "Border" means the border between this state and
4 Mexico.

5 (2) "Committee" means the State Law Enforcement
6 Operations Oversight Committee established under this subchapter.

7 Sec. 411.432. STATE LAW ENFORCEMENT OPERATIONS OVERSIGHT
8 COMMITTEE. (a) A State Law Enforcement Operations Oversight
9 Committee is established to ensure transparency of state operations
10 targeting transnational gang and cartel activity.

11 (b) Members of the committee are appointed as follows:

12 (1) five members of the senate appointed by the
13 lieutenant governor;

14 (2) five members of the house of representatives
15 appointed by the speaker of the house of representatives; and

16 (3) one public member appointed by the governor.

17 (c) A member of the committee serves at the will of the
18 appointing official.

19 (d) The lieutenant governor and the speaker of the house of
20 representatives shall appoint the chair of the committee on an
21 alternating basis. The chair of the committee serves a one-year
22 term that expires September 1 of each year.

23 (e) A member of the committee is not entitled to receive
24 compensation for service on the committee or reimbursement for
25 expenses incurred in the performance of official duties as a member
26 of the committee.

27 (f) Chapter 2110 does not apply to the committee.

1 Sec. 411.433. POWERS AND DUTIES. (a) The committee has the
2 powers and duties of a general investigating committee under
3 Sections 301.020, 301.024, and 301.028, including access to
4 confidential and law enforcement sensitive information.

5 (b) The committee:

6 (1) shall monitor and regularly report to the
7 legislature on the progress of state operations targeting
8 transnational gang and cartel activity, including monitoring
9 conditions at the local level;

10 (2) may request from the department, the Parks and
11 Wildlife Department, and the Texas military forces reports and any
12 other information related to border operations considered
13 necessary by the committee;

14 (3) if necessary, shall cooperate with local and
15 federal officials to perform the committee's duties; and

16 (4) shall meet monthly to carry out the committee's
17 duties.

18 (c) The committee may meet and consult with and advise local
19 governments and federal authorities.

20 Sec. 411.434. REPORTS TO COMMITTEE. (a) The department,
21 the Parks and Wildlife Department, and the Texas military forces
22 shall submit monthly reports to the committee:

23 (1) on the status and progress of law enforcement
24 operations, activities, programs, and investigations targeting
25 transnational gang and cartel activity;

26 (2) providing a detailed analysis of spending,
27 including any incremental costs, for operations, activities,

1 programs, and investigations targeting transnational gang and
2 cartel activity, including:

3 (A) salaries, equipment, and capital purchases;
4 and

5 (B) any contracts related to operations,
6 activities, programs, and investigations targeting transnational
7 gang and cartel activity, and for each contract:

8 (i) the procurement process for the
9 contract;

10 (ii) to whom the contract was awarded;

11 (iii) the amount of the contract; and

12 (iv) if the contract was an emergency
13 purchase under Section 2155.137, state that fact and the reason why
14 it was considered an emergency; and

15 (3) that include:

16 (A) the impact of state operations, activities,
17 programs, and investigations targeting transnational gang and
18 cartel activity on the resources of local law enforcement
19 authorities and the attrition of local law enforcement officers;
20 and

21 (B) recommendations on minimizing the disruption
22 to local law enforcement authorities from state operations,
23 activities, programs, and investigations targeting transnational
24 gang and cartel activity.

25 (b) The department, the Parks and Wildlife Department, and
26 the Texas military forces shall:

27 (1) brief the committee in person at the request of the

1 committee; and

2 (2) respond to any committee request for reports or
3 other information under Section 411.433.

4 SECTION 12. Section 772.007, Government Code, is reenacted
5 to read as follows:

6 Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The
7 criminal justice division established under Section 772.006 shall
8 administer a competitive grant program to support regional,
9 multidisciplinary approaches to combat gang violence through the
10 coordination of gang prevention, intervention, and suppression
11 activities.

12 (b) The grant program administered under this section must
13 be directed toward regions of this state that have demonstrably
14 high levels of gang violence.

15 (c) The criminal justice division shall award grants to
16 qualified applicants, as determined by the division, that
17 demonstrate a comprehensive approach that balances gang
18 prevention, intervention, and suppression activities to reduce
19 gang violence.

20 (d) The criminal justice division shall include in the
21 biennial report required by Section 772.006(a)(9) detailed
22 reporting of the results and performance of the grant program
23 administered under this section.

24 (e) The criminal justice division may use any revenue
25 available for purposes of this section.

26 SECTION 13. Chapter 362, Local Government Code, is amended
27 by adding Section 362.005 to read as follows:

Sec. 362.005. TEXAS TRANSNATIONAL INTELLIGENCE CENTER. (a)

The sheriff's department of a county with a population of at least 700,000 but not more than 800,000 that borders the Texas-Mexico border and the police department of the municipality having the largest population in that county shall jointly establish and operate the Texas Transnational Intelligence Center as a central repository of real-time intelligence relating to criminal activity in the counties along the Texas-Mexico border. The Texas Department of Public Safety shall assist the county sheriff's department and the municipal police department in the establishment and operation of the center.

(b) Each law enforcement agency in a county located along the Texas-Mexico border and the Texas Alcoholic Beverage Commission and Parks and Wildlife Department shall report to the Texas Transnational Intelligence Center intelligence regarding criminal activity in the law enforcement agency's jurisdiction, including details on kidnappings, home invasions, and incidents of impersonation of law enforcement officers.

(c) The intelligence in the Texas Transnational Intelligence Center shall be made available to each law enforcement agency in the state and the Texas Alcoholic Beverage Commission and Parks and Wildlife Department.

(d) The Texas Transnational Intelligence Center shall comply with Section 421.085, Government Code, and the rules relating to that section.

SECTION 14. Section 20.05, Penal Code, is amended to read as follows:

1 Sec. 20.05. SMUGGLING OF PERSONS. (a) A person commits an
2 offense if the person, with the intent to obtain a pecuniary
3 benefit, knowingly:

4 (1) [~~intentionally~~] uses a motor vehicle, aircraft,
5 [~~or~~] watercraft, or other means of conveyance to transport an
6 individual with the intent to:

7 (A) [~~(1)~~] conceal the individual from a peace
8 officer or special investigator; or

9 (B) [~~(2)~~] flee from a person the actor knows is a
10 peace officer or special investigator attempting to lawfully arrest
11 or detain the actor; or

12 (2) encourages or induces an individual to enter or
13 remain in this country in violation of federal law by concealing,
14 harboring, or shielding that person from detection.

15 (b) An [~~Except as provided by Subsection (c), an~~] offense
16 under this section is [~~a state jail felony.~~

17 [~~(c) An offense under this section is~~] a felony of the third
18 degree, except that [~~if the actor commits~~] the offense is:

19 (1) a felony of the second degree if:

20 (A) the actor commits the offense [~~for pecuniary~~
21 ~~benefit, or~~

22 [~~(2)~~] in a manner that creates a substantial
23 likelihood that the smuggled [~~transported~~] individual will suffer
24 serious bodily injury or death; or

25 (B) the smuggled individual is a child younger
26 than 18 years of age at the time of the offense; or

27 (2) a felony of the first degree if:

1 (A) it is shown on the trial of the offense that,
2 as a direct result of the commission of the offense, the smuggled
3 individual became a victim of sexual assault, as defined by Section
4 22.011, or aggravated sexual assault, as defined by Section 22.021;
5 or

6 (B) the smuggled individual suffered serious
7 bodily injury or death.

8 (c) [~~(d)~~] It is an affirmative defense to prosecution,
9 other than a prosecution to which Subsections (b)(1)(A) or (b)(2)
10 apply, under this section that the actor is related to the smuggled
11 [~~transported~~] individual within the second degree of consanguinity
12 or, at the time of the offense, within the second degree of
13 affinity.

14 (d) [~~(e)~~] If conduct constituting an offense under this
15 section also constitutes an offense under another section of this
16 code, the actor may be prosecuted under either section or under both
17 sections.

18 SECTION 15. Chapter 20, Penal Code, is amended by adding
19 Section 20.06 to read as follows:

20 Sec. 20.06. CONTINUOUS SMUGGLING OF PERSONS. (a) A person
21 commits an offense if the person engages two or more times in
22 conduct that constitutes an offense under Section 20.05.

23 (b) If a jury is the trier of fact, members of the jury are
24 not required to agree unanimously on which specific conduct engaged
25 in by the defendant constituted an offense under Section 20.05 or on
26 which exact date the defendant engaged in that conduct. The jury
27 must agree unanimously that the defendant engaged two or more times

1 in conduct that constitutes an offense under Section 20.05.

2 (c) If the victim of an offense under Subsection (a) is the
3 same victim as a victim of an offense under Section 20.05, a
4 defendant may not be convicted of the offense under Section 20.05 in
5 the same criminal action as the offense under Subsection (a),
6 unless the offense under Section 20.05:

7 (1) is charged in the alternative;

8 (2) occurred outside the period in which the offense
9 alleged under Subsection (a) was committed; or

10 (3) is considered by the trier of fact to be a lesser
11 included offense of the offense alleged under Subsection (a).

12 (d) A defendant may not be charged with more than one count
13 under Subsection (a) if all of the conduct that constitutes an
14 offense under Section 20.05 is alleged to have been committed
15 against the same victim.

16 (e) Except as provided by Subsections (f) and (g), an
17 offense under this section is a felony of the second degree.

18 (f) An offense under this section is a felony of the first
19 degree if:

20 (1) the conduct constituting an offense under Section
21 20.05 is conducted in a manner that creates a substantial
22 likelihood that the smuggled individual will suffer serious bodily
23 injury or death; or

24 (2) the smuggled individual is a child younger than 18
25 years of age at the time of the offense.

26 (g) An offense under this section is a felony of the first
27 degree, punishable by imprisonment in the Texas Department of

1 Criminal Justice for life or for any term of not more than 99 years
2 or less than 25 years, if:

3 (1) it is shown on the trial of the offense that, as a
4 direct result of the commission of the offense, the smuggled
5 individual became a victim of sexual assault, as defined by Section
6 22.011, or aggravated sexual assault, as defined by Section 22.021;
7 or

8 (2) the smuggled individual suffered serious bodily
9 injury or death.

10 SECTION 16. Sections 71.02(a) and (b), Penal Code, are
11 amended to read as follows:

12 (a) A person commits an offense if, with the intent to
13 establish, maintain, or participate in a combination or in the
14 profits of a combination or as a member of a criminal street gang,
15 the person commits or conspires to commit one or more of the
16 following:

17 (1) murder, capital murder, arson, aggravated
18 robbery, robbery, burglary, theft, aggravated kidnapping,
19 kidnapping, aggravated assault, aggravated sexual assault, sexual
20 assault, continuous sexual abuse of young child or children,
21 solicitation of a minor, forgery, deadly conduct, assault
22 punishable as a Class A misdemeanor, burglary of a motor vehicle, or
23 unauthorized use of a motor vehicle;

24 (2) any gambling offense punishable as a Class A
25 misdemeanor;

26 (3) promotion of prostitution, aggravated promotion
27 of prostitution, or compelling prostitution;

- 1 (4) unlawful manufacture, transportation, repair, or
2 sale of firearms or prohibited weapons;
- 3 (5) unlawful manufacture, delivery, dispensation, or
4 distribution of a controlled substance or dangerous drug, or
5 unlawful possession of a controlled substance or dangerous drug
6 through forgery, fraud, misrepresentation, or deception;
- 7 (5-a) causing the unlawful delivery, dispensation, or
8 distribution of a controlled substance or dangerous drug in
9 violation of Subtitle B, Title 3, Occupations Code;
- 10 (6) any unlawful wholesale promotion or possession of
11 any obscene material or obscene device with the intent to wholesale
12 promote the same;
- 13 (7) any offense under Subchapter B, Chapter 43,
14 depicting or involving conduct by or directed toward a child
15 younger than 18 years of age;
- 16 (8) any felony offense under Chapter 32;
- 17 (9) any offense under Chapter 36;
- 18 (10) any offense under Chapter 34, 35, or 35A;
- 19 (11) any offense under Section 37.11(a);
- 20 (12) any offense under Chapter 20A;
- 21 (13) any offense under Section 37.10;
- 22 (14) any offense under Section 38.06, 38.07, 38.09, or
23 38.11;
- 24 (15) any offense under Section 42.10;
- 25 (16) any offense under Section 46.06(a)(1) or 46.14;
- 26 (17) any offense under Section 20.05 or 20.06; or
- 27 (18) any offense classified as a felony under the Tax

1 Code.

2 (b) Except as provided in Subsections (c) and (d), an
3 offense under this section is one category higher than the most
4 serious offense listed in Subsection (a) that was committed, and if
5 the most serious offense is a Class A misdemeanor, the offense is a
6 state jail felony, except that the offense is a felony of the first
7 degree punishable by imprisonment in the Texas Department of
8 Criminal Justice for:

9 (1) life without parole, if the most serious offense
10 is an aggravated sexual assault and if at the time of that offense
11 the defendant is 18 years of age or older and:

12 (A) the victim of the offense is younger than six
13 years of age;

14 (B) the victim of the offense is younger than 14
15 years of age and the actor commits the offense in a manner described
16 by Section 22.021(a)(2)(A); or

17 (C) the victim of the offense is younger than 17
18 years of age and suffered serious bodily injury as a result of the
19 offense; ~~or~~

20 (2) life or for any term of not more than 99 years or
21 less than 30 years if the most serious offense is an offense under
22 Section 20.06 that is punishable under Subsection (g) of that
23 section; or

24 (3) life or for any term of not more than 99 years or
25 less than 15 years if the most serious offense is an offense
26 punishable as a felony of the first degree, other than an offense
27 described by Subdivision (1) or (2).

1 SECTION 17. The change in law made by this Act to Section 4,
2 Article 18.20, Code of Criminal Procedure, applies only to an
3 application for an interception order filed on or after the
4 effective date of this Act. An application for an interception
5 order filed before the effective date of this Act is governed by the
6 law in effect on the date the application was filed, and the former
7 law is continued in effect for that purpose.

8 SECTION 18. The Department of Public Safety shall adopt
9 rules required under Section 411.054(b), Government Code, as added
10 by this Act, not later than December 31, 2015.

11 SECTION 19. As soon as possible after the effective date of
12 this Act, but not later than September 1, 2015, the appointing
13 officials described by Section 411.432, Government Code, as added
14 by this Act, shall appoint the members of the State Law Enforcement
15 Operations Oversight Committee established under that section. The
16 speaker of the house of representatives shall make the first
17 appointment to chair the committee as provided by that section.

18 SECTION 20. The changes in law made by this Act to Sections
19 20.05 and 71.02, Penal Code, apply only to an offense committed on
20 or after the effective date of this Act. An offense committed before
21 the effective date of this Act is governed by the law in effect on
22 the date the offense was committed, and the former law is continued
23 in effect for that purpose. For purposes of this section, an offense
24 was committed before the effective date of this Act if any element
25 of the offense occurred before that date.

26 SECTION 21. To the extent of any conflict, this Act prevails
27 over another Act of the 84th Legislature, Regular Session, 2015,

H.B. No. 11

1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 22. This Act takes effect September 1, 2015.