

1-1 By: Bonnen of Brazoria, et al. H.B. No. 11  
 1-2 (Senate Sponsor - Birdwell)  
 1-3 (In the Senate - Received from the House March 23, 2015;  
 1-4 March 25, 2015, read first time and referred to Subcommittee on  
 1-5 Border Security; May 19, 2015, reported adversely, with favorable  
 1-6 Committee Substitute to Committee on Veteran Affairs and Military  
 1-7 Installations; May 22, 2015, reported adversely, with favorable  
 1-8 Committee Substitute by the following vote: Yeas 5, Nays 2;  
 1-9 May 22, 2015, sent to printer.)

1-10 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-11				
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17	X			
1-18		X		

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 11 By: Birdwell

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to the powers and duties of the Texas Department of Public  
 1-23 Safety, military and law enforcement training, and the  
 1-24 investigation, prosecution, punishment, and prevention of certain  
 1-25 offenses; creating an offense and increasing a criminal penalty;  
 1-26 authorizing fees.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Art. 2.12. WHO ARE PEACE OFFICERS. The  
 1-29 following are peace officers:

1-30 (1) sheriffs, their deputies, and those reserve  
 1-31 deputies who hold a permanent peace officer license issued under  
 1-32 Chapter 1701, Occupations Code;

1-33 (2) constables, deputy constables, and those reserve  
 1-34 deputy constables who hold a permanent peace officer license issued  
 1-35 under Chapter 1701, Occupations Code;

1-36 (3) marshals or police officers of an incorporated  
 1-37 city, town, or village, and those reserve municipal police officers  
 1-38 who hold a permanent peace officer license issued under Chapter  
 1-39 1701, Occupations Code;

1-40 (4) rangers, ~~and~~ officers, and members of the  
 1-41 reserve officer corps commissioned by the Public Safety Commission  
 1-42 and the Director of the Department of Public Safety;

1-43 (5) investigators of the district attorneys', criminal  
 1-44 district attorneys', and county attorneys' offices;

1-45 (6) law enforcement agents of the Texas Alcoholic  
 1-46 Beverage Commission;

1-47 (7) each member of an arson investigating unit  
 1-48 commissioned by a city, a county, or the state;

1-49 (8) officers commissioned under Section 37.081,  
 1-50 Education Code, or Subchapter E, Chapter 51, Education Code;

1-51 (9) officers commissioned by the General Services  
 1-52 Commission;

1-53 (10) law enforcement officers commissioned by the  
 1-54 Parks and Wildlife Commission;

1-55 (11) airport police officers commissioned by a city  
 1-56 with a population of more than 1.18 million located primarily in a  
 1-57 county with a population of 2 million or more that operates an  
 1-58 airport that serves commercial air carriers;

1-59 (12) airport security personnel commissioned as peace  
 1-60 officers by the governing body of any political subdivision of this

2-1 state, other than a city described by Subdivision (11), that  
 2-2 operates an airport that serves commercial air carriers;  
 2-3 (13) municipal park and recreational patrolmen and  
 2-4 security officers;  
 2-5 (14) security officers and investigators commissioned  
 2-6 as peace officers by the comptroller;  
 2-7 (15) officers commissioned by a water control and  
 2-8 improvement district under Section 49.216, Water Code;  
 2-9 (16) officers commissioned by a board of trustees  
 2-10 under Chapter 54, Transportation Code;  
 2-11 (17) investigators commissioned by the Texas Medical  
 2-12 Board;  
 2-13 (18) officers commissioned by:  
 2-14 (A) the board of managers of the Dallas County  
 2-15 Hospital District, the Tarrant County Hospital District, the Bexar  
 2-16 County Hospital District, or the El Paso County Hospital District  
 2-17 under Section 281.057, Health and Safety Code;  
 2-18 (B) the board of directors of the Ector County  
 2-19 Hospital District under Section 1024.117, Special District Local  
 2-20 Laws Code; and  
 2-21 (C) the board of directors of the Midland County  
 2-22 Hospital District of Midland County, Texas, under Section 1061.121,  
 2-23 Special District Local Laws Code;  
 2-24 (19) county park rangers commissioned under  
 2-25 Subchapter E, Chapter 351, Local Government Code;  
 2-26 (20) investigators employed by the Texas Racing  
 2-27 Commission;  
 2-28 (21) officers commissioned under Chapter 554,  
 2-29 Occupations Code;  
 2-30 (22) officers commissioned by the governing body of a  
 2-31 metropolitan rapid transit authority under Section 451.108,  
 2-32 Transportation Code, or by a regional transportation authority  
 2-33 under Section 452.110, Transportation Code;  
 2-34 (23) investigators commissioned by the attorney  
 2-35 general under Section 402.009, Government Code;  
 2-36 (24) security officers and investigators commissioned  
 2-37 as peace officers under Chapter 466, Government Code;  
 2-38 (25) ~~[an officer employed by the Department of State~~  
 2-39 ~~Health Services under Section 431.2471, Health and Safety Code,~~  
 2-40 ~~[(26)]~~ officers appointed by an appellate court under  
 2-41 Subchapter F, Chapter 53, Government Code;  
 2-42 (26) ~~[(27)]~~ officers commissioned by the state fire  
 2-43 marshal under Chapter 417, Government Code;  
 2-44 (27) ~~[(28)]~~ an investigator commissioned by the  
 2-45 commissioner of insurance under Section 701.104, Insurance Code;  
 2-46 (28) ~~[(29)]~~ apprehension specialists and inspectors  
 2-47 general commissioned by the Texas Juvenile Justice Department as  
 2-48 officers under Sections 242.102 and 243.052, Human Resources Code;  
 2-49 (29) ~~[(30)]~~ officers appointed by the inspector  
 2-50 general of the Texas Department of Criminal Justice under Section  
 2-51 493.019, Government Code;  
 2-52 (30) ~~[(31)]~~ investigators commissioned by the Texas  
 2-53 Commission on Law Enforcement under Section 1701.160, Occupations  
 2-54 Code;  
 2-55 (31) ~~[(32)]~~ commission investigators commissioned by  
 2-56 the Texas Private Security Board under Section 1702.061  
 2-57 ~~[1702.061(f)]~~, Occupations Code;  
 2-58 (32) ~~[(33)]~~ the fire marshal and any officers,  
 2-59 inspectors, or investigators commissioned by an emergency services  
 2-60 district under Chapter 775, Health and Safety Code;  
 2-61 (33) ~~[(34)]~~ officers commissioned by the State Board  
 2-62 of Dental Examiners under Section 254.013, Occupations Code,  
 2-63 subject to the limitations imposed by that section;  
 2-64 (34) ~~[(35)]~~ investigators commissioned by the Texas  
 2-65 Juvenile Justice Department as officers under Section 221.011,  
 2-66 Human Resources Code; and  
 2-67 (35) ~~[(36)]~~ the fire marshal and any related officers,  
 2-68 inspectors, or investigators commissioned by a county under  
 2-69 Subchapter B, Chapter 352, Local Government Code.

3-1 SECTION 2. Section 4, Article 18.20, Code of Criminal  
3-2 Procedure, is amended to read as follows:

3-3 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED.  
3-4 A judge of competent jurisdiction may issue an order authorizing  
3-5 interception of wire, oral, or electronic communications only if  
3-6 the prosecutor applying for the order shows probable cause to  
3-7 believe that the interception will provide evidence of the  
3-8 commission of:

- 3-9 (1) a felony under Section 19.02, 19.03, or 43.26,  
3-10 Penal Code;
- 3-11 (2) a felony under:
  - 3-12 (A) Chapter 481, Health and Safety Code, other  
3-13 than felony possession of marihuana;
  - 3-14 (B) Section 485.032, Health and Safety Code; or
  - 3-15 (C) Chapter 483, Health and Safety Code;
- 3-16 (3) an offense under Section 20.03 or 20.04, Penal  
3-17 Code;
- 3-18 (4) an offense under Chapter 20A, Penal Code;
- 3-19 (5) an offense under Chapter 34, Penal Code, if the  
3-20 criminal activity giving rise to the proceeds involves the  
3-21 commission of an offense under Title 5, Penal Code, or an offense  
3-22 under federal law or the laws of another state containing elements  
3-23 that are substantially similar to the elements of an offense under  
3-24 Title 5;
- 3-25 (6) an offense under Section 38.11, Penal Code; ~~[or]~~
- 3-26 (7) an offense under Section 43.04 or 43.05, Penal  
3-27 Code; or
- 3-28 (8) an attempt, conspiracy, or solicitation to commit  
3-29 an offense listed in this section.

3-30 SECTION 3. Article 59.01(2), Code of Criminal Procedure, as  
3-31 amended by Chapters 427 (S.B. 529) and 1357 (S.B. 1451), Acts of the  
3-32 83rd Legislature, Regular Session, 2013, is reenacted and amended  
3-33 to read as follows:

- 3-34 (2) "Contraband" means property of any nature,  
3-35 including real, personal, tangible, or intangible, that is:
  - 3-36 (A) used in the commission of:
    - 3-37 (i) any first or second degree felony under  
3-38 the Penal Code;
    - 3-39 (ii) any felony under Section 15.031(b),  
3-40 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,  
3-41 33A, or 35, Penal Code;
    - 3-42 (iii) any felony under The Securities Act  
3-43 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or
    - 3-44 (iv) any offense under Chapter 49, Penal  
3-45 Code, that is punishable as a felony of the third degree or state  
3-46 jail felony, if the defendant has been previously convicted three  
3-47 times of an offense under that chapter;
  - 3-48 (B) used or intended to be used in the commission  
3-49 of:
    - 3-50 (i) any felony under Chapter 481, Health  
3-51 and Safety Code (Texas Controlled Substances Act);
    - 3-52 (ii) any felony under Chapter 483, Health  
3-53 and Safety Code;
    - 3-54 (iii) a felony under Chapter 151, Finance  
3-55 Code;
    - 3-56 (iv) any felony under Chapter 34, Penal  
3-57 Code;
    - 3-58 (v) a Class A misdemeanor under Subchapter  
3-59 B, Chapter 365, Health and Safety Code, if the defendant has been  
3-60 previously convicted twice of an offense under that subchapter;
    - 3-61 (vi) any felony under Chapter 32, Human  
3-62 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
3-63 involves the state Medicaid program;
    - 3-64 (vii) a Class B misdemeanor under Chapter  
3-65 522, Business & Commerce Code;
    - 3-66 (viii) a Class A misdemeanor under Section  
3-67 306.051, Business & Commerce Code;
    - 3-68 (ix) any offense under Section 42.10, Penal  
3-69 Code;

4-1 (x) any offense under Section 46.06(a)(1)  
 4-2 or 46.14, Penal Code;  
 4-3 (xi) any offense under Chapter 71, Penal  
 4-4 Code;  
 4-5 (xii) any offense under Section 20.05 or  
 4-6 20.06, Penal Code; or  
 4-7 (xiii) [~~xiv~~] an offense under Section  
 4-8 326.002, Business & Commerce Code;

4-9 (C) the proceeds gained from the commission of a  
 4-10 felony listed in Paragraph (A) or (B) of this subdivision, a  
 4-11 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of  
 4-12 this subdivision, or a crime of violence;

4-13 (D) acquired with proceeds gained from the  
 4-14 commission of a felony listed in Paragraph (A) or (B) of this  
 4-15 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),  
 4-16 or (xi) of this subdivision, or a crime of violence;

4-17 (E) used to facilitate or intended to be used to  
 4-18 facilitate the commission of a felony under Section 15.031 or  
 4-19 43.25, Penal Code; or

4-20 (F) used to facilitate or intended to be used to  
 4-21 facilitate the commission of a felony under Section 20A.02 or  
 4-22 Chapter 43, Penal Code.

4-23 SECTION 4. Subchapter B, Chapter 402, Government Code, is  
 4-24 amended by adding Section 402.038 to read as follows:

4-25 Sec. 402.038. TRANSNATIONAL AND ORGANIZED CRIME DIVISION.

4-26 (a) The office of the attorney general shall establish a  
 4-27 transnational and organized crime division.

4-28 (b) To address matters related to border security and  
 4-29 organized crime, the transnational and organized crime division  
 4-30 shall:

4-31 (1) establish within the division a prosecution unit  
 4-32 to provide critical assistance to local prosecutors;

4-33 (2) using existing funds, establish within the  
 4-34 division a trafficking of persons unit to:

4-35 (A) assist local law enforcement agencies and  
 4-36 local prosecutors in investigating and prosecuting trafficking of  
 4-37 persons and related crimes; and

4-38 (B) work with the appropriate local and state  
 4-39 agencies to identify victims of trafficking of persons and to  
 4-40 provide the types of assistance available for those victims under  
 4-41 Chapter 56, Code of Criminal Procedure; and

4-42 (3) develop initiatives to provide greater state  
 4-43 assistance, support, and coordination among state law enforcement  
 4-44 agencies, local law enforcement agencies, and local prosecutors.

4-45 (c) Prosecution assistance provided by the division under  
 4-46 this section shall be in accordance with the assistance authorized  
 4-47 under Section 402.028.

4-48 SECTION 5. Section 411.0043, Government Code, is amended to  
 4-49 read as follows:

4-50 Sec. 411.0043. TECHNOLOGY POLICY; REVIEW. (a) The  
 4-51 commission shall implement a policy requiring the department to use  
 4-52 appropriate technological solutions to improve the department's  
 4-53 ability to perform its functions. The policy must ensure that the  
 4-54 public is able to interact with the department on the Internet.

4-55 (b) The department shall periodically:

4-56 (1) review the department's existing information  
 4-57 technology system to determine whether:

4-58 (A) the system's security should be upgraded; and

4-59 (B) the system provides the department with the  
 4-60 best ability to monitor and investigate criminal activity on the  
 4-61 Internet; and

4-62 (2) make any necessary improvements to the  
 4-63 department's information technology system.

4-64 SECTION 6. Subchapter A, Chapter 411, Government Code, is  
 4-65 amended by adding Section 411.0163 to read as follows:

4-66 Sec. 411.0163. HIRING OFFICERS WITH PREVIOUS LAW  
 4-67 ENFORCEMENT EXPERIENCE. Notwithstanding any other provision of  
 4-68 law, the department may, at the time a commissioned officer is  
 4-69 hired, elect to credit up to four years of experience as a peace



5-1 officer in the state as years of service for the purpose of  
 5-2 calculating the officer's salary under Schedule C. All officers  
 5-3 are subject to the one-year probationary period under Section  
 5-4 411.007(g) notwithstanding the officer's rank or salary  
 5-5 classification.

5-6 SECTION 7. Subchapter A, Chapter 411, Government Code, is  
 5-7 amended by adding Section 411.0164 to read as follows:

5-8 Sec. 411.0164. 50-HOUR WORKWEEK FOR COMMISSIONED OFFICERS.  
 5-9 Notwithstanding any other law, the department may implement a  
 5-10 10-hour workday and 50-hour workweek for commissioned officers of  
 5-11 the department.

5-12 SECTION 8. Subchapter A, Chapter 411, Government Code, is  
 5-13 amended by adding Section 411.0165 to read as follows:

5-14 Sec. 411.0165. VETERAN APPLICANTS FOR TROOPER TRAINING.  
 5-15 The department may accept a person applying to the department's  
 5-16 trooper trainee academy if the person:

5-17 (1) has served four or more years in the United States  
 5-18 armed forces as a member of the military police or other security  
 5-19 force and received an honorable discharge; and

5-20 (2) meets all other department requirements for a  
 5-21 commissioned officer.

5-22 SECTION 9. Subchapter A, Chapter 411, Government Code, is  
 5-23 amended by adding Sections 411.0208 and 411.0209 to read as  
 5-24 follows:

5-25 Sec. 411.0208. RESERVE OFFICER CORPS. (a) The commission  
 5-26 may provide for the establishment of a reserve officer corps  
 5-27 consisting of retired or previously commissioned officers of the  
 5-28 department who retired or resigned in good standing.

5-29 (b) The commission shall establish qualifications and  
 5-30 standards of training for members of the reserve officer corps.

5-31 (c) The commission may limit the size of the reserve officer  
 5-32 corps.

5-33 (d) The director shall appoint the members of the reserve  
 5-34 officer corps. Members serve at the director's discretion.

5-35 (e) The director may call the reserve officer corps into  
 5-36 service at any time the director considers it necessary to have  
 5-37 additional officers to assist the department in conducting  
 5-38 background investigations, sex offender compliance checks, and  
 5-39 other duties as determined necessary by the director.

5-40 Sec. 411.0209. DEPARTMENT ASSISTANCE AT INTERNATIONAL  
 5-41 BORDER CHECKPOINTS. (a) To prevent the unlawful transfer of  
 5-42 contraband from this state to the United Mexican States and other  
 5-43 unlawful activity, the department shall implement a strategy for  
 5-44 providing to federal authorities and to local law enforcement  
 5-45 authorities working with those federal authorities at  
 5-46 international border checkpoints assistance in the interdiction of  
 5-47 weapons, bulk currency, stolen vehicles, and other contraband, and  
 5-48 of fugitives, being smuggled into the United Mexican States.

5-49 (b) The department may share with the federal government the  
 5-50 cost of staffing any international border checkpoints for the  
 5-51 purposes described by this section.

5-52 (c) The director and applicable local law enforcement  
 5-53 authorities shall adopt procedures as necessary to administer this  
 5-54 section.

5-55 SECTION 10. Subchapter D, Chapter 411, Government Code, is  
 5-56 amended by adding Section 411.054 to read as follows:

5-57 Sec. 411.054. INCIDENT-BASED CRIME STATISTICS REPORTING  
 5-58 GOAL. (a) The department shall establish a goal that, not later  
 5-59 than September 1, 2019, all local law enforcement agencies:

5-60 (1) will have implemented an incident-based reporting  
 5-61 system that meets the reporting requirements of the National  
 5-62 Incident-Based Reporting System of the Uniform Crime Reporting  
 5-63 Program of the Federal Bureau of Investigation; and

5-64 (2) will use the system described by Subdivision (1)  
 5-65 to submit to the department information and statistics concerning  
 5-66 criminal offenses committed in the jurisdiction of the local law  
 5-67 enforcement agency.

5-68 (b) Not later than January 1, 2017, the department shall  
 5-69 submit a report to the legislature that identifies the number of

6-1 local law enforcement agencies that have implemented the system  
6-2 described by Subsection (a).

6-3 SECTION 11. Subchapter A, Chapter 411, Government Code, is  
6-4 amended by adding Section 411.0141 to read as follows:

6-5 Sec. 411.0141. MULTIUSE TRAINING FACILITY. (a) The Texas  
6-6 Facilities Commission shall construct a multiuse training facility  
6-7 to be used by the department, the Texas military forces, county and  
6-8 municipal law enforcement agencies, and any other military or law  
6-9 enforcement agency, including agencies of the federal government,  
6-10 for training purposes.

6-11 (b) The Texas Facilities Commission, with the assistance of  
6-12 the department, shall locate and acquire real property for the  
6-13 purpose of constructing the training facility. The governing body  
6-14 of a county or municipality, on behalf of the county or  
6-15 municipality, may donate real property to the department for the  
6-16 training facility. The donation may be in fee simple or otherwise.

6-17 (c) The department shall, with the assistance of the Texas  
6-18 Facilities Commission, design the training facility.

6-19 (d) On completion of the construction of the training  
6-20 facility, the Texas Facilities Commission shall transfer ownership  
6-21 of the training facility, including the real property and  
6-22 buildings, to the department.

6-23 (e) The department shall manage the training facility and  
6-24 may adopt rules necessary to implement this section. The  
6-25 department shall make the training facility available for use by  
6-26 the department, the Texas military forces, county and municipal law  
6-27 enforcement agencies, and any other military or law enforcement  
6-28 agency, including agencies of the federal government. The  
6-29 department may set and collect fees for the use of the training  
6-30 facility.

6-31 SECTION 12. Section 772.007, Government Code, is reenacted  
6-32 to read as follows:

6-33 Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The  
6-34 criminal justice division established under Section 772.006 shall  
6-35 administer a competitive grant program to support regional,  
6-36 multidisciplinary approaches to combat gang violence through the  
6-37 coordination of gang prevention, intervention, and suppression  
6-38 activities.

6-39 (b) The grant program administered under this section must  
6-40 be directed toward regions of this state that have demonstrably  
6-41 high levels of gang violence.

6-42 (c) The criminal justice division shall award grants to  
6-43 qualified applicants, as determined by the division, that  
6-44 demonstrate a comprehensive approach that balances gang  
6-45 prevention, intervention, and suppression activities to reduce  
6-46 gang violence.

6-47 (d) The criminal justice division shall include in the  
6-48 biennial report required by Section 772.006(a)(9) detailed  
6-49 reporting of the results and performance of the grant program  
6-50 administered under this section.

6-51 (e) The criminal justice division may use any revenue  
6-52 available for purposes of this section.

6-53 SECTION 13. Chapter 362, Local Government Code, is amended  
6-54 by adding Section 362.005 to read as follows:

6-55 Sec. 362.005. TEXAS TRANSNATIONAL INTELLIGENCE CENTER.  
6-56 (a) The sheriff's department of a county with a population of at  
6-57 least 700,000 but not more than 800,000 that borders the  
6-58 Texas-Mexico border and the police department of the municipality  
6-59 having the largest population in that county shall jointly  
6-60 establish and operate the Texas Transnational Intelligence Center  
6-61 as a central repository of real-time intelligence relating to:

6-62 (1) autopsies in which the person's death is likely  
6-63 connected to transnational criminal activity;

6-64 (2) criminal activity in the counties along the  
6-65 Texas-Mexico border and certain other counties; and

6-66 (3) other transnational criminal activity in the  
6-67 state.

6-68 (b) The Texas Department of Public Safety shall assist the  
6-69 county sheriff's department and the municipal police department in

7-1 the establishment and operation of the center.

7-2 (c) Each law enforcement agency in a county located along  
 7-3 the Texas-Mexico border or in a county that contains a federal  
 7-4 checkpoint shall report to the Texas Transnational Intelligence  
 7-5 Center intelligence regarding criminal activity in the law  
 7-6 enforcement agency's jurisdiction, including details on  
 7-7 kidnappings, home invasions, and incidents of impersonation of law  
 7-8 enforcement officers. The Texas Alcoholic Beverage Commission and  
 7-9 Parks and Wildlife Department shall report to the center  
 7-10 intelligence regarding transnational criminal activity in the  
 7-11 agency's jurisdiction.

7-12 (d) The intelligence in the Texas Transnational  
 7-13 Intelligence Center shall be made available to each law enforcement  
 7-14 agency in the state and the Texas Alcoholic Beverage Commission and  
 7-15 Parks and Wildlife Department.

7-16 (e) The Texas Transnational Intelligence Center shall  
 7-17 comply with Section 421.085, Government Code, and the rules  
 7-18 relating to that section.

7-19 SECTION 14. Section 20.05, Penal Code, is amended to read as  
 7-20 follows:

7-21 Sec. 20.05. SMUGGLING OF PERSONS. (a) A person commits an  
 7-22 offense if the person, with the intent to obtain a pecuniary  
 7-23 benefit, knowingly:

7-24 (1) [~~intentionally~~] uses a motor vehicle, aircraft,  
 7-25 [~~or~~] watercraft, or other means of conveyance to transport an  
 7-26 individual with the intent to:

7-27 (A) [~~(1)~~] conceal the individual from a peace  
 7-28 officer or special investigator; or

7-29 (B) [~~(2)~~] flee from a person the actor knows is a  
 7-30 peace officer or special investigator attempting to lawfully arrest  
 7-31 or detain the actor; or

7-32 (2) encourages or induces a person to enter or remain  
 7-33 in this country in violation of federal law by concealing,  
 7-34 harboring, or shielding that person from detection.

7-35 (b) An [~~Except as provided by Subsection (c), an~~] offense  
 7-36 under this section is [~~a state jail felony.~~

7-37 [~~(c) An offense under this section is~~] a felony of the third  
 7-38 degree, except that [~~if the actor commits~~] the offense is:

7-39 (1) a felony of the second degree if:

7-40 (A) the actor commits the offense [~~for pecuniary~~  
 7-41 benefit; or

7-42 [~~(2)~~] in a manner that creates a substantial  
 7-43 likelihood that the smuggled [~~transported~~] individual will suffer  
 7-44 serious bodily injury or death; or

7-45 (B) the smuggled individual is a child younger  
 7-46 than 18 years of age at the time of the offense; or

7-47 (2) a felony of the first degree if:

7-48 (A) it is shown on the trial of the offense that,  
 7-49 as a direct result of the commission of the offense, the smuggled  
 7-50 individual became a victim of sexual assault, as defined by Section  
 7-51 22.011, or aggravated sexual assault, as defined by Section 22.021;  
 7-52 or

7-53 (B) the smuggled individual suffered serious  
 7-54 bodily injury or death.

7-55 (c) [~~(a)~~] It is an affirmative defense to prosecution of an  
 7-56 offense under this section, other than an offense punishable under  
 7-57 Subsection (b)(1)(A) or (b)(2), that the actor is related to the  
 7-58 smuggled [~~transported~~] individual within the second degree of  
 7-59 consanguinity or, at the time of the offense, within the second  
 7-60 degree of affinity.

7-61 (d) [~~(e)~~] If conduct constituting an offense under this  
 7-62 section also constitutes an offense under another section of this  
 7-63 code, the actor may be prosecuted under either section or under both  
 7-64 sections.

7-65 SECTION 15. Chapter 20, Penal Code, is amended by adding  
 7-66 Section 20.06 to read as follows:

7-67 Sec. 20.06. CONTINUOUS SMUGGLING OF PERSONS. (a) A person  
 7-68 commits an offense if, during a period that is 10 or more days in  
 7-69 duration, the person engages two or more times in conduct that



8-1 constitutes an offense under Section 20.05.

8-2 (b) If a jury is the trier of fact, members of the jury are  
 8-3 not required to agree unanimously on which specific conduct engaged  
 8-4 in by the defendant constituted an offense under Section 20.05 or on  
 8-5 which exact date the defendant engaged in that conduct. The jury  
 8-6 must agree unanimously that the defendant, during a period that is  
 8-7 10 or more days in duration, engaged two or more times in conduct  
 8-8 that constitutes an offense under Section 20.05.

8-9 (c) If the victim of an offense under Subsection (a) is the  
 8-10 same victim as a victim of an offense under Section 20.05, a  
 8-11 defendant may not be convicted of the offense under Section 20.05 in  
 8-12 the same criminal action as the offense under Subsection (a),  
 8-13 unless the offense under Section 20.05:

8-14 (1) is charged in the alternative;

8-15 (2) occurred outside the period in which the offense  
 8-16 alleged under Subsection (a) was committed; or

8-17 (3) is considered by the trier of fact to be a lesser  
 8-18 included offense of the offense alleged under Subsection (a).

8-19 (d) A defendant may not be charged with more than one count  
 8-20 under Subsection (a) if all of the conduct that constitutes an  
 8-21 offense under Section 20.05 is alleged to have been committed  
 8-22 against the same victim.

8-23 (e) Except as provided by Subsections (f) and (g), an  
 8-24 offense under this section is a felony of the second degree.

8-25 (f) An offense under this section is a felony of the first  
 8-26 degree if:

8-27 (1) the conduct constituting an offense under Section  
 8-28 20.05 is conducted in a manner that creates a substantial  
 8-29 likelihood that the smuggled individual will suffer serious bodily  
 8-30 injury or death; or

8-31 (2) the smuggled individual is a child younger than 18  
 8-32 years of age at the time of the offense.

8-33 (g) An offense under this section is a felony of the first  
 8-34 degree, punishable by imprisonment in the Texas Department of  
 8-35 Criminal Justice for life or for any term of not more than 99 years  
 8-36 or less than 25 years, if:

8-37 (1) it is shown on the trial of the offense that, as a  
 8-38 direct result of the commission of the offense, the smuggled  
 8-39 individual became a victim of sexual assault, as defined by Section  
 8-40 22.011, or aggravated sexual assault, as defined by Section 22.021;  
 8-41 or

8-42 (2) the smuggled individual suffered serious bodily  
 8-43 injury or death.

8-44 SECTION 16. Sections 71.02(a) and (b), Penal Code, are  
 8-45 amended to read as follows:

8-46 (a) A person commits an offense if, with the intent to  
 8-47 establish, maintain, or participate in a combination or in the  
 8-48 profits of a combination or as a member of a criminal street gang,  
 8-49 the person commits or conspires to commit one or more of the  
 8-50 following:

8-51 (1) murder, capital murder, arson, aggravated  
 8-52 robbery, robbery, burglary, theft, aggravated kidnapping,  
 8-53 kidnapping, aggravated assault, aggravated sexual assault, sexual  
 8-54 assault, continuous sexual abuse of young child or children,  
 8-55 solicitation of a minor, forgery, deadly conduct, assault  
 8-56 punishable as a Class A misdemeanor, burglary of a motor vehicle, or  
 8-57 unauthorized use of a motor vehicle;

8-58 (2) any gambling offense punishable as a Class A  
 8-59 misdemeanor;

8-60 (3) promotion of prostitution, aggravated promotion  
 8-61 of prostitution, or compelling prostitution;

8-62 (4) unlawful manufacture, transportation, repair, or  
 8-63 sale of firearms or prohibited weapons;

8-64 (5) unlawful manufacture, delivery, dispensation, or  
 8-65 distribution of a controlled substance or dangerous drug, or  
 8-66 unlawful possession of a controlled substance or dangerous drug  
 8-67 through forgery, fraud, misrepresentation, or deception;

8-68 (5-a) causing the unlawful delivery, dispensation, or  
 8-69 distribution of a controlled substance or dangerous drug in



9-1 violation of Subtitle B, Title 3, Occupations Code;

9-2 (6) any unlawful wholesale promotion or possession of

9-3 any obscene material or obscene device with the intent to wholesale

9-4 promote the same;

9-5 (7) any offense under Subchapter B, Chapter 43,

9-6 depicting or involving conduct by or directed toward a child

9-7 younger than 18 years of age;

9-8 (8) any felony offense under Chapter 32;

9-9 (9) any offense under Chapter 36;

9-10 (10) any offense under Chapter 34, 35, or 35A;

9-11 (11) any offense under Section 37.11(a);

9-12 (12) any offense under Chapter 20A;

9-13 (13) any offense under Section 37.10;

9-14 (14) any offense under Section 38.06, 38.07, 38.09, or

9-15 38.11;

9-16 (15) any offense under Section 42.10;

9-17 (16) any offense under Section 46.06(a)(1) or 46.14;

9-18 (17) any offense under Section 20.05 or 20.06; or

9-19 (18) any offense classified as a felony under the Tax

9-20 Code.

9-21 (b) Except as provided in Subsections (c) and (d), an

9-22 offense under this section is one category higher than the most

9-23 serious offense listed in Subsection (a) that was committed, and if

9-24 the most serious offense is a Class A misdemeanor, the offense is a

9-25 state jail felony, except that the offense is a felony of the first

9-26 degree punishable by imprisonment in the Texas Department of

9-27 Criminal Justice for:

9-28 (1) life without parole, if the most serious offense

9-29 is an aggravated sexual assault and if at the time of that offense

9-30 the defendant is 18 years of age or older and:

9-31 (A) the victim of the offense is younger than six

9-32 years of age;

9-33 (B) the victim of the offense is younger than 14

9-34 years of age and the actor commits the offense in a manner described

9-35 by Section 22.021(a)(2)(A); or

9-36 (C) the victim of the offense is younger than 17

9-37 years of age and suffered serious bodily injury as a result of the

9-38 offense; ~~or~~

9-39 (2) life or for any term of not more than 99 years or

9-40 less than 30 years if the most serious offense is an offense under

9-41 Section 20.06 that is punishable under Subsection (g) of that

9-42 section; or

9-43 (3) life or for any term of not more than 99 years or

9-44 less than 15 years if the most serious offense is an offense

9-45 punishable as a felony of the first degree, other than an offense

9-46 described by Subdivision (1) or (2).

9-47 SECTION 17. The change in law made by this Act to Section 4,

9-48 Article 18.20, Code of Criminal Procedure, applies only to an

9-49 application for an interception order filed on or after the

9-50 effective date of this Act. An application for an interception

9-51 order filed before the effective date of this Act is governed by the

9-52 law in effect on the date the application was filed, and the former

9-53 law is continued in effect for that purpose.

9-54 SECTION 18. Not later than December 1, 2015, the office of

9-55 the attorney general shall establish the transnational and

9-56 organized crime division as required by Section 402.038, Government

9-57 Code, as added by this Act.

9-58 SECTION 19. The changes in law made by this Act to Sections

9-59 20.05 and 71.02, Penal Code, apply only to an offense committed on

9-60 or after the effective date of this Act. An offense committed

9-61 before the effective date of this Act is governed by the law in

9-62 effect on the date the offense was committed, and the former law is

9-63 continued in effect for that purpose. For purposes of this section,

9-64 an offense was committed before the effective date of this Act if

9-65 any element of the offense occurred before that date.

9-66 SECTION 20. To the extent of any conflict, this Act prevails

9-67 over another Act of the 84th Legislature, Regular Session, 2015,

9-68 relating to nonsubstantive additions to and corrections in enacted

9-69 codes.

10-1 SECTION 21. This Act takes effect September 1, 2015.

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