

AN ACT

relating to the border prosecution unit.

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

SECTION 1. Chapter 772, Government Code, is amended by designating Sections 772.001, 772.002, 772.003, 772.004, 772.005, 772.006, 772.0061, 772.007, 772.0071, 772.008, 772.009, 772.010 as reenacted and amended by Chapter 1215 (H.B. 925), Acts of the 79th Legislature, Regular Session, 2005, 772.010 as added by Chapter 429 (S.B. 1136), Acts of the 76th Legislature, Regular Session, 1999, 772.010 as added by Chapter 1339 (H.B. 564), Acts of the 76th Legislature, Regular Session, 1999, 772.0101, 772.0102, and 772.011 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. PLANNING ENTITIES

SECTION 2. Sections 772.0071(a)(1), (2), and (4), Government Code, are amended to read as follows:

(1) "Border crime" means any crime involving transnational criminal activity that ~~[occurs in the border region and that]~~ undermines public safety or security, including an offense:

(A) during the prosecution of which an affirmative finding may be requested under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure;

(B) under Chapter 19, 20, 20A, 21, 22, 46, 47, or

1 71, Penal Code;

2 (C) under Title 7 or 8, Penal Code;

3 (D) under Chapter 481, Health and Safety Code;

4 (E) committed by a person who is not a citizen or
5 national of the United States and is not lawfully present in the
6 United States; or

7 (F) that is coordinated with or related to
8 activities or crimes that occur or are committed in the United
9 Mexican States.

10 (2) "Border region" means the portion of this state
11 that is located in a county that:

12 (A) is adjacent to~~+~~

13 [~~(A)~~] an international border; ~~or~~

14 (B) is adjacent to a county described by
15 Paragraph (A); or

16 (C) is served by a prosecuting attorney whose
17 jurisdiction includes a county described by Paragraph (A) or (B).

18 (4) "Eligible prosecuting attorney" means an attorney
19 [~~in a border region~~] who represents the state in the prosecution of
20 felonies and who:

21 (A) serves a county located in the border region;

22 or

23 (B) serves a county or counties that the criminal
24 justice division determines to be significantly affected by border
25 crime.

26 SECTION 3. Chapter 772, Government Code, is amended by
27 adding Subchapter B to read as follows:

1 SUBCHAPTER B. BORDER PROSECUTION UNIT

2 Sec. 772.051. DEFINITIONS. In this subchapter:

3 (1) "Border crime" and "border region" have the
4 meanings assigned by Section 772.0071.

5 (2) "Border prosecuting attorney" means a prosecuting
6 attorney in a border region who represents the state in the
7 prosecution of felony border crimes.

8 (3) "Criminal justice division" means the criminal
9 justice division established under Section 772.006.

10 (4) "Prosecuting attorney" means a district attorney,
11 criminal district attorney, or county attorney with felony criminal
12 jurisdiction.

13 (5) "Unit" means the border prosecution unit.

14 Sec. 772.052. GENERAL FUNCTION OF BORDER PROSECUTION UNIT.

15 The governor shall establish the border prosecution unit within the
16 criminal justice division to cooperate with and support members of
17 the unit in prosecuting border crime.

18 Sec. 772.053. MEMBERSHIP. (a) The unit is composed of the
19 following prosecuting attorneys:

20 (1) the district attorney for the 34th Judicial
21 District;

22 (2) the district attorney for the 38th Judicial
23 District;

24 (3) the district attorney for the 49th Judicial
25 District;

26 (4) the district attorney for the 63rd Judicial
27 District;

- 1 (5) the district attorney for the 79th Judicial
2 District;
- 3 (6) the district attorney for the 81st Judicial
4 District;
- 5 (7) the district attorney for the 83rd Judicial
6 District;
- 7 (8) the district attorney for the 112th Judicial
8 District;
- 9 (9) the district attorney for the 143rd Judicial
10 District;
- 11 (10) the district attorney for the 156th Judicial
12 District;
- 13 (11) the district attorney for the 229th Judicial
14 District;
- 15 (12) the district attorney for the 293rd Judicial
16 District;
- 17 (13) the district attorney for the 452nd Judicial
18 District;
- 19 (14) the criminal district attorney for Hidalgo
20 County;
- 21 (15) the county attorney with felony criminal
22 jurisdiction for Cameron County;
- 23 (16) the district attorney for Kleberg and Kenedy
24 Counties;
- 25 (17) the county attorney with felony criminal
26 jurisdiction for Willacy County; and
- 27 (18) any other prosecuting attorney who represents the

1 state in the prosecution of felonies for a judicial district that is
2 created by the legislature in the border region or who receives a
3 grant under the prosecution of border crime grant program
4 established under Section 772.0071.

5 (b) A prosecuting attorney described by Subsection (a)
6 shall serve on the unit in addition to the other duties of the
7 prosecuting attorney assigned by law.

8 (c) Each member of the unit shall enter into a memorandum of
9 understanding with the criminal justice division to collaborate and
10 cooperate in the prosecution of border crime.

11 Sec. 772.054. OFFICERS. (a) The unit, on a majority vote,
12 shall elect from among its membership a presiding officer and an
13 assistant presiding officer.

14 (b) The presiding officer and the assistant presiding
15 officer serve terms of one year.

16 (c) The assistant presiding officer serves as presiding
17 officer in the presiding officer's absence or if a vacancy occurs in
18 that office until a new presiding officer is elected as provided by
19 Subsection (d).

20 (d) If a vacancy occurs in the office of presiding officer
21 or assistant presiding officer before the end of the vacating
22 officer's term, the unit shall elect a person to serve the remainder
23 of the term.

24 Sec. 772.055. REIMBURSEMENT FOR EXPENSES. A member of the
25 unit is not entitled to compensation for service on the unit but is
26 entitled to be reimbursed for necessary expenses incurred in
27 carrying out the duties and responsibilities of a member of the unit

1 as provided by the General Appropriations Act.

2 Sec. 772.056. DUTIES OF UNIT. (a) The unit shall meet at
3 least once annually to provide the governor, the lieutenant
4 governor, the speaker of the house of representatives, and the
5 members of the legislature with information regarding:

6 (1) the status of border crime and its effect on
7 prosecutorial resources;

8 (2) the border crimes prosecuted by members of the
9 unit; and

10 (3) the number of border crimes that are committed by a
11 person who is not lawfully present in the United States.

12 (b) The unit shall advise the criminal justice division on:

13 (1) the allocation of grants under the prosecution of
14 border crime grant program established under Section 772.0071;

15 (2) the division of the border region into two or more
16 subregions for training purposes; and

17 (3) any additional prosecutorial needs of the border
18 prosecuting attorneys, including a need for the employment of
19 regional counsel described by Section 772.057 to assist with the
20 prosecution of border crimes.

21 (c) The unit shall facilitate the coordination and
22 collaboration of the border prosecuting attorneys with any regional
23 counsel described by Section 772.057 and with other law enforcement
24 agencies, including the Department of Public Safety, in the
25 investigation and prosecution of border crime.

26 (d) The unit shall develop a nonexclusive list of offenses
27 not otherwise described by Section 772.0071(a)(1) that constitute

1 border crime to provide guidance and enhance uniformity in the
2 investigation and prosecution of border crime.

3 (e) The unit shall serve as a clearinghouse for information
4 related to the investigation and prosecution of border crime and
5 shall develop best practices and guidelines, including best
6 practices for the collection and protection of confidential law
7 enforcement information.

8 (f) The unit shall assist in developing a training program
9 and providing training to members of the unit and law enforcement
10 agencies in the border region on specific issues and techniques
11 relating to the investigation and prosecution of border crime.

12 (g) The unit shall develop accountability and performance
13 measures for members of the unit who receive a grant under the
14 prosecution of border crime grant program established under Section
15 [772.0071](#).

16 Sec. 772.057. DUTIES OF REGIONAL COUNSEL. (a) An attorney
17 employed by a border prosecuting attorney as regional counsel shall
18 assist the border prosecuting attorneys and other regional counsel,
19 as needed, in:

- 20 (1) the prosecution of border crime;
21 (2) the screening of cases involving border crime;
22 (3) the presenting of cases involving border crime to
23 a grand jury; and
24 (4) the preparation and trial of cases involving
25 border crime.

26 (b) The regional counsel shall serve as a liaison between
27 the unit and other criminal justice entities, including the

1 Department of Public Safety and federal, state, and local
2 prosecutors and law enforcement agencies located in the border
3 region, by:

4 (1) working closely with those entities, as needed, to
5 coordinate and assist in the investigation and prosecution of
6 border crime; and

7 (2) attending multiagency task force hearings and
8 meetings held by federal, state, and local prosecutors and law
9 enforcement agencies on the investigation and prosecution of border
10 crime.

11 (c) The regional counsel shall provide legal and technical
12 assistance to law enforcement agencies investigating border crime,
13 including by:

14 (1) providing legal advice and recommendations
15 regarding Fourth Amendment search and seizure issues, relevant
16 statutes, and case law;

17 (2) drafting and reviewing affidavits requesting the
18 issuance of search warrants, wiretap orders, pen register and trap
19 and trace orders, mobile tracking device orders, and similar court
20 orders; and

21 (3) drafting requests for court orders authorizing:

22 (A) the interception of oral, wire, and
23 electronic communications;

24 (B) the installation and use of a pen register or
25 trap and trace device;

26 (C) the disclosure of subscriber or customer
27 records and information; and

1 (D) other similar court orders that are required
2 to be filed by a prosecutor.

3 (d) The regional counsel shall coordinate training with the
4 unit for border prosecuting attorneys and law enforcement agencies,
5 including by:

6 (1) assisting in identifying training needs in the
7 county or subregion, if any is created, in which the border
8 prosecuting attorney's office or the agency is located;

9 (2) assisting in the development of training curricula
10 and guidelines for the investigation and prosecution of border
11 crime; and

12 (3) participating in and hosting training
13 presentations and sessions in each subregion, if any is created.

14 (e) The regional counsel shall provide legal and technical
15 assistance to border prosecuting attorneys, including by:

16 (1) performing legal research relating to
17 investigating and prosecuting border crime, if requested; and

18 (2) coordinating with border prosecuting attorneys
19 and law enforcement agencies to identify experts in the
20 investigation and prosecution of complex, long-term cases against
21 organized criminal enterprises.

22 Sec. 772.058. GIFTS AND GRANTS. The criminal justice
23 division may apply for and accept gifts, grants, and donations from
24 any organization described in Section 501(c)(3) or (4) of the
25 Internal Revenue Code of 1986 for the purposes of funding any
26 activity of the unit under this subchapter. The criminal justice
27 division may apply for and accept grants under federal and state

1 programs.

2 SECTION 4. Section 772.0071(d), Government Code, is
3 repealed.

4 SECTION 5. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 12 was passed by the House on April 9, 2015, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 12 on May 29, 2015, by the following vote: Yeas 141, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 12 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor