

By: Larson

H.B. No. 165

Substitute the following for H.B. No. 165:

By: King of Parker

C.S.H.B. No. 165

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the Texas Liberty Preservation Act; creating criminal  
3 offenses; providing criminal 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 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);

23 (7) Section 1071(a) of the National Defense  
24 Authorization Act for Fiscal Year 2014 (Pub. L. No. 113-66)  
25 authorizes the Secretary of Defense of the United States to create  
26 the Conflict Records Research Center, which will establish a  
27 database to facilitate research and analysis of records captured

1 from countries, organizations, and individuals "now or once hostile  
2 to the United States";

3 (8) the Conflict Records Research Center has access to  
4 information that was unconstitutionally collected by the National  
5 Security Agency and the Department of Defense; and

6 (9) the actions authorized by Sections 1021 and 1022  
7 of the National Defense Authorization Act for Fiscal Year 2012  
8 (Pub. L. No. 112-81) and Section 1071(a) of the National Defense  
9 Authorization Act for Fiscal Year 2014 (Pub. L. No. 113-66) and the  
10 enforcement of those actions are illegal within this state.

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

13 SUBCHAPTER G. TEXAS LIBERTY PRESERVATION ACT

14 Sec. 421.101. CERTAIN PORTIONS OF THE FEDERAL NATIONAL  
15 DEFENSE AUTHORIZATION ACTS OF 2012 AND 2014 INVALID. Sections 1021  
16 and 1022 of the National Defense Authorization Act for Fiscal Year  
17 2012 (Pub. L. No. 112-81) and Section 1071(a) of the National  
18 Defense Authorization Act for Fiscal Year 2014 (Pub. L. No. 113-66)  
19 violate portions of federal law, the United States Constitution,  
20 and the Texas Constitution and, as such, are invalid and illegal in  
21 this state.

22 Sec. 421.102. POLICY; VIOLATION OF SUBCHAPTER. It is the  
23 policy of this state to refuse to provide material support for or to  
24 participate in any way with the implementation within this state of  
25 Sections 1021 and 1022 of the National Defense Authorization Act  
26 for Fiscal Year 2012 (Pub. L. No. 112-81) or Section 1071(a) of the  
27 National Defense Authorization Act for Fiscal Year 2014 (Pub. L.

1 No. 113-66). Any act to enforce or attempt to enforce those laws is  
2 in violation of this subchapter.

3 Sec. 421.103. OFFENSES; PENALTIES. (a) A person who is an  
4 official or employee of the United States commits an offense if the  
5 person enforces or attempts to enforce a statute, a rule or  
6 regulation, an order, or any law of the United States in violation  
7 of this subchapter.

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

11 (c) A person who is a public officer or employee of this  
12 state commits an offense if that person enforces or attempts to  
13 enforce a statute, a rule or regulation, an order, or any law of the  
14 United States in violation of this subchapter.

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

18 Sec. 421.104. REPORT. The Texas Department of Public  
19 Safety shall report to the governor and the legislature any attempt  
20 by the federal government to implement Section 1021 or 1022 of the  
21 National Defense Authorization Act for Fiscal Year 2012 (Pub. L.  
22 No. 112-81) or Section 1071(a) of the National Defense  
23 Authorization Act for Fiscal Year 2014 (Pub. L. No. 113-66) through  
24 the Texas Department of Public Safety or another state agency.

25 SECTION 3. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2015.