

By: Longoria

H.B. No. 3037

A BILL TO BE ENTITLED

AN ACT

relating to the border prosecution unit.

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

SECTION 1. Chapter 41, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. BORDER PROSECUTION UNIT

Sec. 41.351. DEFINITIONS. In this subchapter:

(1) "Board of directors" means the board of directors of the unit.

(2) "Border crime" means any crime 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, 46, or 71, Penal Code;

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

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

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

(F) that is coordinated with or related to activities or crimes that occur or are committed in the United

1 Mexican States.

2 (3) "Border prosecuting attorney" means an attorney in
3 a border region who represents the state solely or primarily in the
4 prosecution of border crime.

5 (4) "Border region" means the portion of this state
6 that is located in a county that is adjacent to an international
7 border and any county in which a prosecuting attorney listed in
8 Section 41.353(a) serves.

9 (5) "Executive board" means the executive board
10 governing the board of directors of the unit.

11 (6) "Prosecuting attorney" means a county attorney,
12 district attorney, or criminal district attorney.

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

14 Sec. 41.352. GENERAL FUNCTION OF BORDER PROSECUTION UNIT.
15 The border prosecution unit is an independent unit that cooperates
16 with and supports border prosecuting attorneys in prosecuting
17 border crime.

18 Sec. 41.353. BOARD OF DIRECTORS. (a) The unit is governed
19 by a board of directors composed of the following prosecuting
20 attorneys:

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

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

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

27 (4) the district attorney for the 63rd Judicial

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

1 created by the legislature in the border region.

2 (b) A prosecuting attorney described by Subsection (a)
3 shall serve on the board of directors in addition to the other
4 duties of the prosecuting attorney assigned by law.

5 (c) The board of directors shall meet annually for the
6 purpose of electing the executive board and approving or amending
7 bylaws governing the unit.

8 (d) A majority of the members of the board of directors
9 constitutes a quorum for the transaction of business. The board of
10 directors must approve any action by a majority vote of the members
11 present.

12 (e) The board of directors shall divide the border region
13 into three subregions and shall set the boundaries of the
14 subregions as necessary.

15 (f) Each member of the board of directors shall enter into a
16 memorandum of understanding with the unit to collaborate and
17 cooperate in the prosecution of border crime.

18 Sec. 41.354. EXECUTIVE BOARD; DUTIES, AUTHORITY, AND
19 GOVERNANCE. (a) The board of directors is governed by an executive
20 board composed of seven members elected by the membership of the
21 board of directors, as follows:

22 (1) six members of the executive board shall be
23 elected to represent the subregions established under Section
24 41.353(e), with two members from each subregion elected by a
25 majority vote of the members of the board of directors whose
26 jurisdiction is located in that subregion; and

27 (2) one member of the executive board shall be elected

1 by a majority vote of all members of the board of directors.

2 (b) The board of directors shall establish procedures for
3 the election of the members of the executive board.

4 (c) Members of the executive board shall serve terms of two
5 years expiring January 1 of each odd-numbered year.

6 (d) If a vacancy on the executive board occurs before the
7 end of the vacating member's term, the executive board shall elect a
8 person to serve the remainder of the term. To be eligible for
9 election under this subsection, a person must meet any
10 qualifications required of the vacating member for service on the
11 executive board.

12 (e) The executive board shall conduct the business of the
13 unit.

14 (f) A majority of the members of the executive board
15 constitutes a quorum for the purpose of transacting business. The
16 executive board must approve any action by a majority vote of the
17 members present.

18 Sec. 41.355. OFFICERS. (a) The members of the board of
19 directors, on a majority vote, shall elect from among the
20 membership of the executive board a presiding officer and an
21 assistant presiding officer. The presiding officer serves as the
22 presiding officer of the board of directors and the executive
23 board, and the assistant presiding officer serves as the assistant
24 presiding officer of the board of directors and the executive
25 board.

26 (b) The presiding officer and the assistant presiding
27 officer serve terms of one year.

1 (c) The assistant presiding officer serves as presiding
2 officer of the board of directors and the executive board in the
3 presiding officer's absence or if a vacancy occurs in that office
4 until a new presiding officer is elected as provided by Subsection
5 (d).

6 (d) If a vacancy occurs in the office of presiding officer
7 or assistant presiding officer before the end of the vacating
8 officer's term, the executive board shall elect a person to serve
9 the remainder of the term.

10 Sec. 41.356. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE
11 BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of
12 directors or the executive board may not be construed to be a civil
13 office of emolument for any purpose, including those purposes
14 described in Section 40, Article XVI, Texas Constitution.

15 Sec. 41.357. REIMBURSEMENT FOR EXPENSES. A member of the
16 board of directors or executive board is not entitled to
17 compensation for service on the board of directors or executive
18 board, if applicable, but is entitled to be reimbursed for
19 necessary expenses incurred in carrying out the duties and
20 responsibilities of a member of the board of directors and the
21 executive board, if applicable, as provided by the General
22 Appropriations Act.

23 Sec. 41.358. UNIT ADMINISTRATOR; REGIONAL COUNSEL;
24 ADDITIONAL EMPLOYEES. (a) The executive board shall employ a
25 person to serve as administrator of the unit and shall set the
26 salary and benefits of the administrator.

27 (b) The executive board shall employ one or more attorneys

1 as regional counsel for each subregion and shall set the salary and
2 benefits of each regional counsel.

3 (c) The executive board may employ additional employees
4 necessary for the discharge of the duties of the unit and shall
5 determine the compensation of those employees.

6 Sec. 41.359. DUTIES OF UNIT. (a) The unit, in
7 collaboration with the Department of Public Safety, shall assist
8 and support the members of the board of directors in the prosecution
9 of border crime, including by providing border prosecuting
10 attorneys and investigative resources.

11 (b) The unit shall enter into a memorandum of understanding
12 with each member of the board of directors to provide funding for
13 the member to employ one or more border prosecuting attorneys. A
14 member of the board who employs a border prosecuting attorney shall
15 set the salary and benefits of the attorney.

16 (c) The unit may enter into a memorandum of understanding
17 under Subsection (b) with the prosecuting attorney for a judicial
18 district that is not located in the border region if the Department
19 of Public Safety determines that the judicial district is
20 significantly affected by border crime.

21 (d) The unit shall facilitate the coordination and
22 collaboration of the members of the board of directors with the
23 regional counsel employed by the unit and with other law
24 enforcement agencies, including the Department of Public Safety, in
25 the investigation and prosecution of border crime.

26 (e) The unit shall develop a nonexclusive list of offenses
27 not otherwise described by Section 41.351(2) that constitute border

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

3 (f) 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 regarding each subregion.

8 (g) The unit shall assist in developing a training program
9 and providing training to prosecuting attorneys 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 Sec. 41.360. DUTIES OF REGIONAL COUNSEL. (a) An attorney
13 employed as regional counsel for the unit shall assist the members
14 of the board of directors, border prosecuting attorneys, and other
15 regional counsel, as needed, in:

- 16 (1) the prosecution of border crime;
17 (2) the screening of cases involving border crime;
18 (3) the presenting of cases involving border crime to
19 a grand jury; and
20 (4) the preparation and trial of cases involving
21 border crime.

22 (b) The regional counsel shall serve as a liaison between
23 the members of the board of directors and other criminal justice
24 entities, including the Department of Public Safety and federal,
25 state, and local prosecutors and law enforcement agencies located
26 in the border region, by:

- 27 (1) working closely with those entities, as needed, to

1 coordinate and assist in the investigation and prosecution of
2 border crime; and

3 (2) attending multiagency task force hearings and
4 meetings held by federal, state, and local prosecutors and law
5 enforcement agencies on the investigation and prosecution of border
6 crime.

7 (c) The regional counsel shall provide legal and technical
8 assistance to law enforcement agencies investigating border crime,
9 including by:

10 (1) providing legal advice and recommendations
11 regarding Fourth Amendment search and seizure issues, relevant
12 statutes, and case law;

13 (2) drafting and reviewing affidavits requesting the
14 issuance of search warrants, wiretap orders, pen register and trap
15 and trace orders, mobile tracking device orders, and similar court
16 orders; and

17 (3) drafting requests for court orders authorizing:

18 (A) the interception of oral, wire, and
19 electronic communications;

20 (B) the installation and use of a pen register
21 and trap and trace device;

22 (C) the disclosure of subscriber records and
23 information; and

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

26 (d) The regional counsel shall coordinate training with the
27 unit for members of the board of directors and law enforcement

1 agencies, including by:

2 (1) assisting in identifying training needs in the
3 subregion in which the member's office or the agency is located;

4 (2) assisting in the development of training curricula
5 and guidelines for the investigation and prosecution of border
6 crime; and

7 (3) participating in and hosting training
8 presentations and sessions in each subregion.

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

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

13 (2) coordinating with border prosecuting attorneys
14 and law enforcement agencies to identify experts in the
15 investigation and prosecution of complex, long-term cases against
16 organized criminal enterprises.

17 Sec. 41.361. GIFTS AND GRANTS. The unit may apply for and
18 accept gifts, grants, and donations from any organization described
19 in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 for
20 the purposes of funding any activity of the unit under this
21 subchapter. The unit may apply for and accept grants under federal
22 and state programs.

23 Sec. 41.362. STATE PAYMENT OF CERTAIN COSTS. (a) The state
24 shall reimburse a county located in the border region for:

25 (1) expenses incurred by the county for the
26 investigation of border crime, whether or not the investigation
27 results in the prosecution of an offense; and

1 (2) reasonable operational expenses of the unit,
2 including training activities for the unit's employees and general
3 expenses relating to its investigative and prosecutorial duties.

4 (b) The commissioners court of a county that has incurred
5 expenses under Subsection (a) shall certify the amount of
6 reimbursement for expenses to the comptroller. The comptroller
7 shall issue a warrant to the commissioners court in that amount or,
8 if the comptroller determines that the amount certified by the
9 commissioners court is unreasonable, in an amount that the
10 comptroller determines to be reasonable.

11 SECTION 2. This Act takes effect September 1, 2015.