

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

No equivalent provision.

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

(1) "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, 21, 22, 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

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 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

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

that occur or are committed in the United Mexican States.

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

(A) is adjacent to[:

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

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

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

that occur or are committed in the United Mexican States.

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

(A) is adjacent to[:

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

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

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

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

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

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

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" and "border region" have the meanings assigned by Section 772.0071.

(3) "Border prosecuting attorney" means a prosecuting attorney in a border region who represents the state in the

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

SUBCHAPTER B. BORDER PROSECUTION UNIT

Sec. 772.051. DEFINITIONS. In this subchapter:

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

(2) "Border prosecuting attorney" means a prosecuting attorney in a border region who represents the state in the

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

prosecution of felony border crimes.

(4) "Executive board" means the executive board governing the board of directors of the unit.

(5) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction.

(6) "Unit" means the border prosecution unit.

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

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

- (1) the district attorney for the 34th Judicial District;
- (2) the district attorney for the 38th Judicial District;
- (3) the district attorney for the 49th Judicial District;
- (4) the district attorney for the 63rd Judicial District;
- (5) the district attorney for the 79th Judicial District;
- (6) the district attorney for the 81st Judicial District;
- (7) the district attorney for the 83rd Judicial District;
- (8) the district attorney for the 112th Judicial District;
- (9) the district attorney for the 143rd Judicial District;

prosecution of felony border crimes.

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

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

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

Sec. 772.052. GENERAL FUNCTION OF BORDER PROSECUTION UNIT. The governor shall establish the border prosecution unit within the criminal justice division to cooperate with and support members of the unit in prosecuting border crime.

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

- (1) the district attorney for the 34th Judicial District;
- (2) the district attorney for the 38th Judicial District;
- (3) the district attorney for the 49th Judicial District;
- (4) the district attorney for the 63rd Judicial District;
- (5) the district attorney for the 79th Judicial District;
- (6) the district attorney for the 81st Judicial District;
- (7) the district attorney for the 83rd Judicial District;
- (8) the district attorney for the 112th Judicial District;
- (9) the district attorney for the 143rd Judicial District;
- (10) the district attorney for the 156th Judicial District;

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(10) the district attorney for the 156th Judicial District;
(11) the district attorney for the 229th Judicial District;
(12) the district attorney for the 293rd Judicial District;
(13) the district attorney for the 452nd Judicial District;
(14) the criminal district attorney for Hidalgo County;
(15) the county attorney with felony criminal jurisdiction for Cameron County;
(16) the district attorney for Kleberg and Kenedy Counties;
(17) the county attorney with felony criminal jurisdiction for Willacy County; and
(18) any other prosecuting attorney who represents the state in the prosecution of felonies for a judicial district that is created by the legislature in the border region.

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

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

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

(e) The board of directors shall divide the border region into three subregions and shall set the boundaries of the subregions

(11) the district attorney for the 229th Judicial District;
(12) the district attorney for the 293rd Judicial District;
(13) the district attorney for the 452nd Judicial District;
(14) the criminal district attorney for Hidalgo County;
(15) the county attorney with felony criminal jurisdiction for Cameron County;
(16) the district attorney for Kleberg and Kenedy Counties;
(17) the county attorney with felony criminal jurisdiction for Willacy County; and
(18) any other prosecuting attorney who represents the state in the prosecution of felonies for a judicial district that is created by the legislature in the border region or who receives a grant under the prosecution of border crime grant program established under Section 772.0071.

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

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

as necessary.

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

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

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

(2) one member of the executive board shall be elected by a majority vote of all members of the board of directors.

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

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

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

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

(f) A majority of the members of the executive board

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

No equivalent provision.

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

constitutes a quorum for the purpose of transacting business. The executive board must approve any action by a majority vote of the members present.

Sec. 41.355. OFFICERS. (a) The members of the board of directors, on a majority vote, shall elect from among the membership of the executive board a presiding officer and an assistant presiding officer. The presiding officer serves as the presiding officer of the board of directors and the executive board, and the assistant presiding officer serves as the assistant presiding officer of the board of directors and the executive board.

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

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

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

Sec. 41.356. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of directors or the

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

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

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

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

No equivalent provision.

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

executive board may not be construed to be a civil office of emolument for any purpose, including those purposes described in Section 40, Article XVI, Texas Constitution.

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

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

(b) The executive board shall employ one or more attorneys as regional counsel for each subregion and shall set the salary and benefits of each regional counsel.

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

Sec. 41.359. DUTIES OF UNIT.

(a) The unit, in collaboration with the Department of Public Safety, shall assist and support the members of the board of directors in the prosecution of border crime, including by

Sec. 772.055. REIMBURSEMENT FOR EXPENSES. A member of the unit is not entitled to compensation for service on the unit but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a member of the unit as provided by the General Appropriations Act.

No equivalent provision.

Sec. 772.056. DUTIES OF UNIT.

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

providing border prosecuting attorneys, investigative and support staff, and other resources.

(b) The unit shall solicit requests for proposals from each member of the board of directors to provide funding for the member to employ one or more border prosecuting attorneys, to employ investigative and support staff, and to provide other resources. The unit shall review each request and make recommendations to the criminal justice division of the governor's office regarding the distribution of grant money under the prosecution of border crime grant program established under Section 772.0071. A member of the board who employs a border prosecuting attorney or investigative or support staff shall set the salary and benefits of the attorney or staff member.

(c) The unit may solicit requests for proposals from, and make recommendations under Subsection (b) regarding the distribution of grant money to, a prosecuting attorney who serves a county or counties that are not located in the border region if the Department of Public Safety determines that the county or counties served by the attorney are significantly affected by border crime.

(a) The unit shall meet at least once annually to provide the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature with information regarding:
(1) the status of border crime and its effect on prosecutorial resources;
(2) the border crimes prosecuted by members of the unit; and

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

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

(b) The unit shall advise the criminal justice division on:
(1) the allocation of grants under the prosecution of border crime grant program established under Section 772.0071;
(2) the division of the border region into two or more subregions for training purposes; and
(3) any additional prosecutorial needs of the border prosecuting attorneys, including a need for the employment of regional counsel described by Section 772.057 to assist with the prosecution of border crimes.

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

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

(e) The unit shall develop a nonexclusive list of offenses not otherwise described by Section 772.0071(a)(1) that constitute border crime to provide guidance and enhance uniformity in the investigation and prosecution of border crime.

(d) The unit shall develop a nonexclusive list of offenses not otherwise described by Section 772.0071(a)(1) that constitute border crime to provide guidance and enhance uniformity in the investigation and prosecution of border crime.

(f) The unit shall serve as a clearinghouse for information related to the investigation and prosecution of border crime and shall develop best practices and guidelines, including best practices for the collection and protection of confidential law enforcement information regarding each subregion.

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

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

(g) The unit shall assist in developing a training program and providing training to prosecuting attorneys and law enforcement agencies in the border region on specific issues and techniques relating to the investigation and prosecution of border crime.

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

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

Sec. 41.360. DUTIES OF REGIONAL COUNSEL. (a) An attorney employed as regional counsel for the unit shall assist the members of the board of directors, border prosecuting attorneys, and other regional counsel, as needed, in:

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

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

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

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

- (1) working closely with those entities, as needed, to coordinate and assist in the investigation and prosecution of border crime; and
- (2) attending multiagency task force hearings and meetings

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

- (1) working closely with those entities, as needed, to coordinate and assist in the investigation and prosecution of border crime; and
- (2) attending multiagency task force hearings and meetings

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

held by federal, state, and local prosecutors and law enforcement agencies on the investigation and prosecution of border crime.

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

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

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

(3) drafting requests for court orders authorizing:

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

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

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

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

(d) The regional counsel shall coordinate training with the unit for members of the board of directors and law enforcement agencies, including by:

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

held by federal, state, and local prosecutors and law enforcement agencies on the investigation and prosecution of border crime.

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

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

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

(3) drafting requests for court orders authorizing:

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

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

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

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

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

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

House Bill 12
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 772.059. [Added by FA1 and deleted by FA2.]

SECTION 4. Same as House version.

SECTION 5. Same as House version.