

SENATE AMENDMENTS

2nd Printing

By: Murphy

H.B. No. 3082

A BILL TO BE ENTITLED

AN ACT

relating to investigating and prosecuting the criminal offense of operating an unmanned aircraft over or near certain facilities.

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

SECTION 1. Section 423.0045, Government Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) A person commits an offense if the person with criminal negligence [~~intentionally or knowingly~~]:

(1) operates an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground level;

(2) allows an unmanned aircraft to make contact with a correctional facility, detention facility, or critical infrastructure facility, including any person or object on the premises of or within the facility; or

(3) allows an unmanned aircraft to come within a distance of a correctional facility, detention facility, or critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(e) A peace officer who investigates an offense under this section shall notify the Department of Public Safety of the investigation. The department may require further information from

1 the officer as the department determines necessary.

2 SECTION 2. Section 423.0045, Government Code, as amended by
3 this Act, applies only to an offense committed on or after the
4 effective date of this Act. An offense committed before the
5 effective date of this Act is governed by the law in effect on the
6 date the offense was committed, and the former law is continued in
7 effect for that purpose. For purposes of this section, an offense
8 was committed before the effective date of this Act if any element
9 of the offense occurred before that date.

10 SECTION 3. This Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

Leta Starn
Secretary of the Senate

BY: *Beverly Powell*

FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 3082 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION ____ . Section 423.0045(a)(1), Government Code, as
5 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
6 the 85th Legislature, Regular Session, 2017, is reenacted to read
7 as follows:

8 (1) "Correctional facility" means:

9 (A) a confinement facility operated by or under
10 contract with any division of the Texas Department of Criminal
11 Justice;

12 (B) a municipal or county jail;

13 (C) a confinement facility operated by or under
14 contract with the Federal Bureau of Prisons; or

15 (D) a secure correctional facility or secure
16 detention facility, as defined by Section 51.02, Family Code.

17 SECTION ____ . Section 423.0045(a)(1-a), Government Code, is
18 reenacted to conform to the changes made to Section 423.0045(a)(1),
19 Government Code, by Chapter 824 (H.B. 1643), Acts of the 85th
20 Legislature, Regular Session, 2017, and is further amended to read
21 as follows:

22 (1-a) "Critical infrastructure facility" means:

23 (A) one of the following, if completely enclosed
24 by a fence or other physical barrier that is obviously designed to
25 exclude intruders, or if clearly marked with a sign or signs that
26 are posted on the property, are reasonably likely to come to the
27 attention of intruders, and indicate that entry is forbidden:

28 (i) a petroleum or alumina refinery;

29 (ii) an electrical power generating

1 facility, substation, switching station, or electrical control
2 center;

3 (iii) a chemical, polymer, or rubber
4 manufacturing facility;

5 (iv) a water intake structure, water
6 treatment facility, wastewater treatment plant, or pump station;

7 (v) a natural gas compressor station;

8 (vi) a liquid natural gas terminal or storage
9 facility;

10 (vii) a telecommunications central switching
11 office or any structure used as part of a system to provide wired
12 or wireless telecommunications services;

13 (viii) a port, railroad switching yard,
14 trucking terminal, or other freight transportation facility;

15 (ix) a gas processing plant, including a
16 plant used in the processing, treatment, or fractionation of
17 natural gas;

18 (x) a transmission facility used by a
19 federally licensed radio or television station;

20 (xi) a steelmaking facility that uses an
21 electric arc furnace to make steel;

22 (xii) a dam that is classified as a high
23 hazard by the Texas Commission on Environmental Quality; ~~or~~

24 (xiii) a concentrated animal feeding
25 operation, as defined by Section 26.048, Water Code; or

26 (xiv) a military installation owned or
27 operated by or for the federal government, the state, or another
28 governmental entity; or

29 (B) if enclosed by a fence or other physical
30 barrier obviously designed to exclude intruders:

31 (i) any portion of an aboveground oil, gas,

1 or chemical pipeline;

2 (ii) an oil or gas drilling site;

3 (iii) a group of tanks used to store crude
4 oil, such as a tank battery;

5 (iv) an oil, gas, or chemical production
6 facility;

7 (v) an oil or gas wellhead; or

8 (vi) any oil and gas facility that has an
9 active flare.

10 SECTION ____ . Section 423.0045(c), Government Code, as
11 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
12 the 85th Legislature, Regular Session, 2017, is reenacted to read
13 as follows:

14 (c) This section does not apply to:

15 (1) conduct described by Subsection (b) that involves
16 a correctional facility, detention facility, or critical
17 infrastructure facility and is committed by:

18 (A) the federal government, the state, or a
19 governmental entity;

20 (B) a person under contract with or otherwise
21 acting under the direction or on behalf of the federal government,
22 the state, or a governmental entity;

23 (C) a law enforcement agency;

24 (D) a person under contract with or otherwise
25 acting under the direction or on behalf of a law enforcement
26 agency; or

27 (E) an operator of an unmanned aircraft that is
28 being used for a commercial purpose, if the operation is conducted
29 in compliance with:

30 (i) each applicable Federal Aviation
31 Administration rule, restriction, or exemption; and

1 (ii) all required Federal Aviation
2 Administration authorizations; or

3 (2) conduct described by Subsection (b) that involves
4 a critical infrastructure facility and is committed by:

5 (A) an owner or operator of the critical
6 infrastructure facility;

7 (B) a person under contract with or otherwise
8 acting under the direction or on behalf of an owner or operator of
9 the critical infrastructure facility;

10 (C) a person who has the prior written consent of
11 the owner or operator of the critical infrastructure facility; or

12 (D) the owner or occupant of the property on which
13 the critical infrastructure facility is located or a person who
14 has the prior written consent of the owner or occupant of that
15 property.

16 SECTION ____ . To the extent of any conflict, this Act
17 prevails over another Act of the 86th Legislature, Regular Session,
18 2019, relating to nonsubstantive additions to and corrections in
19 enacted codes.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 22, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3082 by Murphy (Relating to investigating and prosecuting the criminal offense of operating an unmanned aircraft over or near certain facilities.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to lower the culpable mental state for the offense of operation of an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility from "intentionally or knowingly" to "with criminal negligence." The bill would modify the definition of critical infrastructure as it relates to the offense. The bill would require a peace officer who investigates the offense to notify the Department of Public Safety (DPS) of the investigation and would permit DPS to require further information from the officer as DPS determines necessary. The offense expanded by this bill would be a Class A or a Class B misdemeanor.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

It is assumed that the provisions of the bill relating to reports required by this bill could be absorbed using existing resources.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

According to OCA, no significant impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405

Department of Public Safety

LBB Staff: WP, LBO, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 16, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3082 by Murphy (Relating to investigating and prosecuting the criminal offense of operating an unmanned aircraft over or near certain facilities.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to lower the culpable mental state for the offense of operation of an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility from "intentionally or knowingly" to "with criminal negligence." The bill would require a peace officer who investigates the offense to notify the Department of Public Safety (DPS) of the investigation and would permit DPS to require further information from the officer as DPS determines necessary. The offense expanded by this bill would be a Class A or a Class B misdemeanor.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

It is assumed that the provisions of the bill relating to reports required by this bill could be absorbed using existing resources.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

According to OCA, no significant impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety

LBB Staff: WP, LBO, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3082 by Murphy (Relating to investigating and prosecuting the criminal offense of operating an unmanned aircraft over or near certain facilities.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to lower the culpable mental state for the offense of operation of an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility from "intentionally or knowingly" to "with criminal negligence." The bill would require a peace officer who investigates the offense to notify the Department of Public Safety (DPS) of the investigation and would permit DPS to require further information from the officer as DPS determines necessary. The offense expanded by this bill would be a Class A or a Class B misdemeanor.

According to the Office of Court Administration (OCA), no significant impact to the state court system is anticipated.

It is assumed that the provisions of the bill relating to reports required by this bill could be absorbed using existing resources.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

According to OCA, no significant impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405

Department of Public Safety

LBB Staff: WP, LBO, SD, GP