

By: Troxclair

H.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to measures to ensure the safety and welfare of the southern border region of this state, including protection from ongoing criminal activity and public health threats; creating a criminal offense; creating a civil penalty.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. SHORT TITLE. This Act shall be known as the Border Protection Unit Act.

SECTION 1.02. FINDINGS. (a) The legislature finds that:

(1) The security of Texans and the sovereignty of the state has been threatened by the deadly activities of transnational cartels operating throughout the State of Texas and the United States;

(2) Many Texans have lost the peaceful use and enjoyment of their properties due to criminal activities along the border;

(3) Lethal quantities of opioids such as fentanyl are being trafficked into Texas and resulting in the poisoning deaths of thousands of people throughout the country;

(4) Texas is in such imminent danger as will not admit of delay, and now declares authority under Article 1, § 10 of the U.S. Constitution;

(5) The Legislature, acting with the Governor, has the

solemn duty to protect and defend the citizens of Texas, and maintain the sovereignty of Texas borders.

SECTION 1.03. Article 2.12, Code of Criminal Procedure, is amended by amending Subsection (4) to read as follows:

(4) rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission, ~~and~~ the Director of the Department of Public Safety, and the unit chief of the Border Protection Unit;

SECTION 1.04. Section 411.001, Government Code, is amended to read as follows:

Sec. 411.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Public Safety Commission.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Director" means the public safety director.

(4) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(5) "Unit" means the Border Protection Unit.

(6) "Unit chief" means the person charged with directing the unit.

## ARTICLE 2. POWERS AND DUTIES

SECTION 2.01. Section 411.002, Government Code, is amended by amending Subsection (a) to read as follows:

(a) The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety, ~~and~~ provide for the prevention and detection of crime,

1 and to defend and secure the Texas air, maritime, and land border.

2 The department is composed of the Texas Rangers, the Texas Highway  
3 Patrol, the Border Protection Unit, the administrative division,  
4 and other divisions that the commission considers necessary.

5 SECTION 2.02. Sections 411.004, Government Code, is amended  
6 by amending Subdivision (1) to read as follows:

7 (1) formulate plans and policies for:

8 (A) enforcement of state criminal, traffic, and  
9 safety laws;

10 (B) prevention of crime;

11 (C) detection and apprehension of persons who  
12 violate laws; ~~and~~

13 (D) education of citizens of this state in the  
14 promotion of public safety and the observance of law; and

15 (E) defense and security of the Texas air,  
16 maritime, and land border.

17 SECTION 2.03. Chapter 411, Government Code, is amended by  
18 adding Sections 411.0055 and 411.0056 to read as follows:

19 Sec. 411.0055. BORDER PROTECTION UNIT CHIEF. (a) The  
20 governor shall appoint a citizen of the United States as border  
21 protection unit chief. The unit chief serves until removed by the  
22 governor.

23 (b) The unit chief may appoint, with the advice and consent  
24 of the commission, deputy unit chiefs and assistant unit chiefs who  
25 shall perform the duties that the unit chief designates. Deputy  
26 unit chiefs and assistant unit chiefs serve until removed by the  
27 unit chief.

1        (c) The unit chief, deputy unit chiefs, and assistant unit  
2 chiefs are entitled to annual salaries as provided by the  
3 legislature.

4        Sec. 411.0056. POWERS AND DUTIES OF THE BORDER PROTECTION  
5 UNIT CHIEF. (a) The unit chief shall:

6                (1) be directly responsible to the commission for all  
7 conduct of the border unit;

8                (2) act as the executive director of the unit;

9                (3) act with the commission in an advisory capacity,  
10 without vote;

11               (4) adopt rules, subject to commission approval,  
12 considered necessary for the control of the unit;

13               (5) issue commissions as law enforcement officers,  
14 under the commission's direction, and to such members of the border  
15 unit;

16               (6) create as necessary, with the advice and consent  
17 of the commission, operational and administrative divisions within  
18 the unit, and appoint heads of the divisions;

19               (7) the unit chief may employ licensed state or local  
20 law enforcement personnel to participate in unit operations and  
21 functions.

22               (8) the unit chief may employ law-abiding citizens  
23 without a felony conviction to participate in unit operations and  
24 functions, but such persons may not have arresting authority unless  
25 trained and specifically authorized by the governor.

26               (9) quarterly, annually, and biennially submit to the  
27 commission detailed reports of the operation of the unit, including

1 statements of its expenditures; and

2 (10) prepare, swear to, submit to the governor, and  
3 file in the department's records a quarterly statement containing  
4 an itemized list of all money received and its source and all money  
5 spent and the purposes for which it was spent.

6 (b) The unit chief or unit chief's designee shall provide to  
7 members of the commission and to unit employees, as often as  
8 necessary, information regarding the requirements for office or  
9 employment under this chapter, including information regarding a  
10 person's responsibilities under applicable laws relating to  
11 standards of conduct for state officers or employees.

12 (c) The powers and duties vested in the director under the  
13 following Government Code Sections are also vested in the border  
14 protection unit chief:

15 (1) Section [411.007](#);

16 (2) Section [411.0071](#);

17 (3) Section [411.0075](#);

18 (4) Section [411.0079](#);

19 (5) Section [411.009](#);

20 (6) Section [411.0095](#);

21 (7) Section [411.0097](#);

22 (8) Section [411.0097](#);

23 (9) Section [411.0098](#);

24 (10) Section [411.013](#);

25 (11) Section [411.0131](#);

26 (12) Section [411.0132](#);

27 (13) Section [411.0141](#);

- 1            (14) Section [411.015](#);
- 2            (15) Section [411.016](#);
- 3            (16) Section [411.0161](#);
- 4            (17) Section [411.0162](#);
- 5            (18) Section [411.0163](#);
- 6            (19) Section [411.0164](#);
- 7            (20) Section [411.017](#);
- 8            (21) Section [411.018](#);
- 9            (22) Section [411.0207](#);
- 10           (23) Section [411.0208](#);
- 11           (24) Section [411.0209](#);
- 12           (25) Section [411.02095](#);
- 13           (26) Section [411.041](#);
- 14           (27) Section [411.043](#);
- 15           (28) Section [411.044](#);
- 16           (29) Section [411.045](#);
- 17           (30) Section [411.048](#);
- 18           (31) Section [411.0603](#);
- 19           (32) Section [411.0604](#);
- 20           (33) Section [411.0865](#);
- 21           (34) Section [411.087](#);
- 22           (35) Section [411.0891](#);
- 23           (36) Section [411.146](#);
- 24           (37) Section [411.147](#);
- 25           (38) Section [411.1471](#);
- 26           (39) Section [411.151](#);
- 27           (40) Section [411.154](#);

1           (41) Section 411.242;

2           (42) Section 411.243;

3           (43) Section 411.251;

4           (44) Section 411.252;

5           (45) Section 411.253;

6           (46) Section 411.255;

7           (47) Section 411.263; and

8           (48) Section 411.506.

9           (d) The director may not exercise any operational or  
10 administrative control of the border protection unit, or the unit  
11 chief.

12           SECTION 2.04. Section 411.006, Government Code, is amended  
13 by amending Subsection (a) to read as follows:

14           Sec. 411.006. DUTIES OF DIRECTOR. (a) The director shall:

15                 (1) ~~[be directly responsible to the commission for the~~  
16 ~~conduct of the department's affairs,]~~

17                 ~~[(2)]~~ act as executive director for and be directly  
18 responsible to the commission for all conduct of the Texas Highway  
19 Patrol, the Texas Rangers, and other administrative divisions and  
20 departments assigned by the commission ~~[of the department];~~

21                 ~~[(3)]~~ (2) act with the commission in an advisory  
22 capacity, without vote;

23                 ~~[(4)]~~ (3) adopt rules, subject to commission  
24 approval, considered necessary for the control of the department;

25                 ~~[(5)]~~ (4) issue commissions as law enforcement  
26 officers, under the commission's direction, to all members of the  
27 Texas Rangers and the Texas Highway Patrol and to other officers of

1 the department;

2           ~~[(6)]~~ (5) appoint, with the advice and consent of the  
3 commission, the head of a division or bureau provided for by this  
4 chapter;

5           ~~[(7)]~~ (6) quarterly, annually, and biennially submit  
6 to the commission detailed reports of the operation of the  
7 department, including statements of its expenditures; and

8           ~~[(8)]~~ (7) prepare, swear to, submit to the governor,  
9 and file in the department's records a quarterly statement  
10 containing an itemized list of all money received and its source and  
11 all money spent and the purposes for which it was spent.

12       SECTION 2.05. Section [411.007](#), Government Code, is amended  
13 by amending Subsection (a) to read as follows:

14       (a) Subject to the provisions of this chapter, the director  
15 and the unit chief may appoint, promote, reduce, suspend, or  
16 discharge any officer or employee of the department which has been  
17 assigned under their authority by the commission.

18       SECTION 2.06. Section [411.017](#), Government Code, is amended  
19 by amending Subsection (a) to read as follows:

20       (a) A person commits an offense if, without the director's  
21 authorization, the person:

22           (1) manufactures, sells, or possesses a badge,  
23 identification card, or other item bearing a department insignia or  
24 an insignia deceptively similar to the department's;

25           (2) makes a copy or likeness of a badge,  
26 identification card, or department insignia, with intent to use or  
27 allow another to use the copy or likeness to produce an item bearing



1 the department insignia or an insignia deceptively similar to the  
2 department's; or

3 (3) uses the term "Texas Department of Public Safety,"  
4 "Department of Public Safety," "Texas Ranger," ~~or~~ "Texas Highway  
5 Patrol," or "Border Protection Unit" in connection with an object,  
6 with the intent to create the appearance that the object belongs to  
7 or is being used by the department.

8 SECTION 2.07. Section [411.251](#), Government Code, is amended  
9 by amending Subsection (a) and adding Subsection (c) to read as  
10 follows:

11 (a) The commission shall establish the office of inspector  
12 general for the department and the office of inspector general for  
13 the unit.

14 (c) The Border Protection Unit inspector general shall be  
15 appointed by the governor who shall perform the duties of this  
16 subchapter or as may be provided by law and as the unit chief  
17 designates. The inspector general shall serve until removed by the  
18 governor. The Border Protection Unit inspector general is  
19 responsible for:

20 (1) preparing and delivering assessments concerning  
21 the administration of the unit to the governor, the legislature,  
22 and the unit chief;

23 (2) perform responsibilities affecting the unit as set  
24 forth in Subsection (c);

25 (3) acting to prevent and detect serious breaches of  
26 departmental policy, fraud, and abuse of office, including any acts  
27 of criminal conduct within the unit; and

1           (4) independently and objectively reviewing,  
2 investigating, delegating, and overseeing the investigation of:

3                   (A) conduct described in Subdivision (1);

4                   (B) criminal activity occurring within the unit;

5                   (C) allegations of wrongdoing by unit employees;

6                   (D) crimes committed on unit property; and

7                   (E) serious breaches of unit policy.

8           SECTION 2.08. Chapter 411, Government Code, is amended by  
9 adding Subchapter S to read as follows:

10                   SUBCHAPTER S. BORDER PROTECTION UNIT

11           Sec. 411.534. COMPOSITION. (a) The Border Protection Unit  
12 ("the unit") is a division under the commission consisting of the  
13 number of officers authorized by the legislature and headquartered  
14 in the border region. The highest ranking officer of the unit is  
15 the border protection unit chief who shall be appointed by the  
16 governor, and report directly to the governor. Officers are  
17 entitled to compensation as provided by the legislature and will be  
18 recruited and trained within the border region to the fullest  
19 extent possible.

20           (b) the unit chief may employ law-abiding citizens without a  
21 felony conviction to participate in unit operations and functions,  
22 but such persons may not have arresting authority unless trained  
23 and specifically authorized by the governor.

24           (c) The unit shall acquire equipment and facilities, and  
25 conduct training necessary to fulfill the operational,  
26 intelligence, communication, logistics, and administrative duties  
27 set forth by the unit chief to include land, air, and maritime

1 responsibilities.

2 (d) The commission shall transfer existing personnel,  
3 equipment, and facilities to the unit from within the Department of  
4 Public Safety as necessary at the discretion of the commission  
5 while maintaining accountability and adequate support for all  
6 officers and activities within the commission's responsibility.

7 Sec. 411.535. AUTHORITY OF OFFICERS. (a) An officer of the  
8 unit is governed by the law regulating and defining the powers and  
9 duties of sheriffs performing similar duties, except that the  
10 officer may make arrests and execute processes in a criminal case in  
11 any county.

12 (b) Within the State of Texas, officers of the unit may, to  
13 the extent consistent with the Constitution and federal law,  
14 arrest, detain, and deter individuals crossing the border  
15 illegally, including with the use of non-deadly force.

16 (c) Notwithstanding any other law, the unit chief, and all  
17 officers and employees of the unit, as well as law-abiding citizens  
18 employed, to participate in unit operations under Section  
19 411.534(b), shall have immunity from criminal and civil liability  
20 for any actions taken that are authorized by this subchapter.

21 Sec. 411.536. CONSTRUCTION AND MAINTENANCE OF PHYSICAL  
22 BARRIERS. (a) The unit shall oversee the construction and  
23 maintenance of walls, fences, and other physical barriers along the  
24 border with Mexico in order to enhance the safety and security of  
25 Texans.

26 (b) The unit chief, or his designee, is authorized to  
27 negotiate and acquire the necessary right of way, leases,

1 permissions, materials, and services needed to erect, and maintain  
2 physical barriers.

3 (c) The unit may use funds appropriated by the legislature,  
4 other government funds, or donations from United States citizens  
5 and domestic entities.

6 Sec. 411.537. ARTICLE I § 10 INVOCATION. (a) To the extent  
7 consistent with the United States and Texas constitutions and  
8 federal and state law, in the event that the legislature finds, or  
9 the governor has declared, or declares, a state of invasion or  
10 imminent danger under Article I § 10 of the U.S. Constitution, the  
11 unit chief shall be authorized to order the unit to take the  
12 following actions:

13 (1) deter and repel persons attempting to enter the  
14 State of Texas illegally at locations outside a port of entry, to  
15 the extent consistent with the United States and Texas  
16 constitutions and federal immigration laws;

17 (2) within the State of Texas, return aliens to Mexico  
18 who have been observed actually crossing the Mexican border  
19 illegally, and were apprehended or detained in the immediate  
20 vicinity of the border, to the extent consistent with the United  
21 States and Texas constitutions and federal immigration laws;

22 (3) use force to repel, arrest, and detain known  
23 transnational cartel operatives in the border region, to the extent  
24 consistent with the United States and Texas constitutions and  
25 federal immigration laws.

26 Sec. 411.538. QUALIFICATIONS. (a) To be commissioned as an  
27 officer of the Border Protection Unit, a person must:

1           (1) be a U.S. citizen or legal permanent resident;  
2           (2) be a graduate of a Texas police academy;  
3           (3) have experience as a sworn law-enforcement officer  
4 in another state or federal law-enforcement agency; or  
5           (4) be appointed or employed per the criteria provided  
6 in Section 411.534(b) of this Act.

7           (b) The border protection unit is an equal employment  
8 opportunity employer, and it may not discriminate against or give  
9 preferential treatment to any employee or job applicant on account  
10 of the individual's race, color, sex, national origin, or religion.

11           Sec. 411.539. TERM OF AUTHORIZATION. The unit is  
12 established upon passage of this act, subject to appropriations  
13 from the legislature, and shall continue in operation until  
14 December 31, 2030. The legislature shall reauthorize the unit  
15 prior to its sunset date or the entity is considered to be  
16 effectively abolished.

17           Sec. 411.540. RULEMAKING AUTHORITY. The unit chief of the  
18 unit may promulgate such substantive or procedural rules as may be  
19 required to carry out the general administration of the unit,  
20 including, but not limited to: procurement of facilities, training  
21 and equipment, and effectuation of personnel policies.

22           Sec. 411.541. OPERATIONAL PLAN TO COORDINATE BORDER  
23 SECURITY. (a) The unit shall develop and recommend to the governor  
24 and report to the legislature a strategic plan that establishes the  
25 framework for the budgeting and operation of the unit, including  
26 homeland security strategies, administered by assisting agencies.  
27 The unit shall annually report to the governor and the legislature

1 on the implementation of the strategic plan.

2 (b) The unit shall include in the strategic plan goals,  
3 objectives, and performance measures that involve collaboration  
4 with other state agencies, and local entities.

5 (c) The unit shall create plans and conduct operations  
6 consistent with the strategic plan.

7 (d) The operational plan under this section shall evaluate 8  
8 U.S.C. § 1325(a) and other federal laws relating to the requirement  
9 that border crossings occur only at designated ports of entry.

10 Sec. 411.542. SEVERABILITY. (a) Mindful of *Leavitt v. Jane*  
11 *L.*, 518 U.S. 137 (1996), in which in the context of determining the  
12 severability of a state statute the Supreme Court of the United  
13 States held that an explicit statement of legislative intent is  
14 controlling, it is the intent of the legislature that every  
15 provision, section, subsection, sentence, clause, phrase, or word  
16 in this subchapter, and every application of the provisions in this  
17 subchapter to every person, group of persons, or circumstances, are  
18 severable from each other.

19 (b) If any application of any provision in this subchapter  
20 to any person, group of persons, or circumstances is found by a  
21 court to be invalid, preempted, or unconstitutional, for any reason  
22 whatsoever, then the remaining applications of that provision to  
23 all other persons and circumstances shall be severed and preserved,  
24 and shall remain in effect. All constitutionally valid  
25 applications of the provisions in this subchapter shall be severed  
26 from any applications that a court finds to be invalid, preempted,  
27 or unconstitutional, because it is the legislature's intent and

1 priority that every single valid application of every statutory  
2 provision be allowed to stand alone.

3 (c) The legislature further declares that it would have  
4 enacted this subchapter, and each provision, section, subsection,  
5 sentence, clause, phrase, or word, and all constitutional  
6 applications of the provisions of this subchapter, irrespective of  
7 the fact that any provision, section, subsection, sentence, clause,  
8 phrase, or word, or applications of this subchapter were to be  
9 declared invalid, preempted, or unconstitutional.

10 (d) If any provision of this subchapter is found by any  
11 court to be unconstitutionally vague, then the applications of that  
12 provision that do not present constitutional vagueness problems  
13 shall be severed and remain in force, consistent with the  
14 severability requirements of Subsections (a), (b), and (c).

15 (e) No court may decline to enforce the severability  
16 requirements of Subsections (a), (b), (c), and (d) on the ground  
17 that severance would "rewrite" the statute or involve the court in  
18 legislative or lawmaking activity. A court that declines to  
19 enforce or enjoins a state official from enforcing a statutory  
20 provision is never rewriting a statute or engaging in legislative  
21 or lawmaking activity, as the statute continues to contain the same  
22 words as before the court's decision. A judicial injunction or  
23 declaration of unconstitutionality:

24 (1) is nothing more than an edict prohibiting  
25 enforcement of the disputed statute against the named parties to  
26 that lawsuit, which may subsequently be vacated by a later court if  
27 that court has a different understanding of the requirements of the

Texas Constitution or the United States Constitution or federal law;

(2) is not a formal amendment of the language in a statute; and

(3) no more rewrites a statute than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

(f) If any state or federal court disregards any of the severability requirements in Subsections (a), (b), (c), (d), or (e), and declares or finds any provision of this subchapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating federal law or the federal or state constitutions, then that provision shall be interpreted, as a matter of state law, as if the legislature had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

### ARTICLE 3. TRESPASS

SECTION 3.01. Chapter 30, Penal Code, is amended by adding Section 30.08 to read as follows:

Sec. 30.08. TRESPASS WHILE ENTERING THE STATE OF TEXAS. (a) A person commits an offense if the person knowingly enters the



1 property of another without effective consent when knowingly  
2 entering the state of Texas from a neighboring jurisdiction.

3 (b) An offense under this section is a third degree felony.

4 (c) A person who violates this section is subject to a civil  
5 penalty of not less than \$10,000 for each violation. The attorney  
6 general may file an action to recover a civil penalty assessed under  
7 this section and may recover attorney's fees and costs incurred in  
8 bringing the action.

9 (d) The fact that conduct is subject to a civil or criminal  
10 penalty under this section does not abolish or impair any remedy for  
11 the conduct that is available in a civil suit.

12 SECTION 3.02. Section 17.44, Code of Criminal Procedure, is  
13 amended to read as follows:

14 (a) A magistrate may require as a condition of release on  
15 bond that the defendant submit to:

16 (1) home confinement and electronic monitoring under  
17 the supervision of an agency designated by the magistrate; or

18 (2) testing on a weekly basis for the presence of a  
19 controlled substance in the defendant's body.

20 (b) In this article, "controlled substance" has the meaning  
21 assigned by Section 481.002, Health and Safety Code.

22 (c) A magistrate shall require as a condition of release on  
23 bond for someone arrested for the offense of Penal Code 30.08  
24 Trespass While Entering the State of Texas that the defendant  
25 submit to electronic monitoring unless the magistrate makes a  
26 finding that the defendant is not a flight risk.

27 [~~(c)~~] (d) The magistrate may revoke the bond and order the

defendant arrested if the defendant:

(1) violates a condition of home confinement and electronic monitoring;

(2) refuses to submit to a test for controlled substances or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or

(3) fails to pay the reimbursement fee for monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

~~[(d)]~~ (e) The community justice assistance division of the Texas Department of Criminal Justice may provide grants to counties to implement electronic monitoring programs authorized by this article.

~~[(e)]~~ (f) The cost of electronic monitoring or testing for controlled substances under this article may be assessed as a reimbursement fee or ordered paid directly by the defendant as a condition of bond.

ARTICLE 4. PUBLIC HEALTH EMERGENCY

SECTION 4.01. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 81B to read as follows:

CHAPTER 81B. SUSPENSION OF ENTRY OF PERSONS FROM DESIGNATED PLACES TO PREVENT SPREAD OF COMMUNICABLE DISEASES

Sec. 81B.001. DEFINITIONS. In this chapter:

(1) "COVID-19" means the 2019 novel coronavirus

1 disease.

2 (2) "Federally declared public health emergency"  
3 means:

4 (A) a public health emergency declared by the  
5 United States Secretary of Health and Human Services under 42  
6 U.S.C. Section 247d; or

7 (B) an emergency or disaster declared, including  
8 under a renewal of the declaration, by the president of the United  
9 States in relation to a public health emergency described by  
10 Paragraph (A) under:

11 (i) the National Emergencies Act (50 U.S.C.  
12 Section 1601 et seq.); or

13 (ii) the Robert T. Stafford Disaster Relief  
14 and Emergency Assistant Act (42 U.S.C. Section 5121 et seq.).

15 (3) "Port of entry" means a port of entry in the United  
16 States, as defined by part 101 of the customs regulations (19 CFR  
17 part 101).

18 (4) "Person" means any individual other than:

19 (A) one described in the first sentence of  
20 section 1 of the Fourteenth Amendment to the United States  
21 Constitution; or

22 (B) one described in 8 U.S.C. § 1101(a)(20).

23 Sec. 81B.002. SUSPENSION OF ENTRY. (a) To the extent  
24 consistent with the Constitution and federal immigration laws,  
25 during any of the following, all persons entering Texas by land from  
26 another country must pass through a legal port of entry for  
27 appropriate medical review:

1           (1) the pendency of any federally declared public  
2 health emergency for COVID-19,

3           (2) at any time which the federal government has in  
4 place any vaccination requirements for any person lawfully residing  
5 in the United States, including but not limited to government  
6 contractors or healthcare workers, for the purposes of preventing  
7 the spread of COVID-19 in the United States, or

8           (3) at any time which the U.S. Department of State has  
9 travel warnings for COVID-19 for any country from which citizens  
10 have illegally entered the United States during the most recent  
11 year for which there is available data.

12           (b) Any person who enters the State of Texas from a foreign  
13 country other than in accordance with Subsection (a), shall, to the  
14 extent consistent with the Constitution and federal immigration  
15 laws, be removed to the country from which they entered the United  
16 States, or their country of origin, or another location as  
17 practicable, as rapidly as possible, with as little time spent in  
18 congregate settings as practicable under the circumstances.

19           Sec. 81B.003. SEVERABILITY. (a) Mindful of *Leavitt v. Jane*  
20 *L.*, 518 U.S. 137 (1996), in which in the context of determining the  
21 severability of a state statute the Supreme Court of the United  
22 States held that an explicit statement of legislative intent is  
23 controlling, it is the intent of the legislature that every  
24 provision, section, subsection, sentence, clause, phrase, or word  
25 in this chapter, and every application of the provisions in this  
26 chapter to every person, group of persons, or circumstances, are  
27 severable from each other.

1        (b) If any application of any provision in this chapter to  
2 any person, group of persons, or circumstances is found by a court  
3 to be invalid, preempted, or unconstitutional, for any reason  
4 whatsoever, then the remaining applications of that provision to  
5 all other persons and circumstances shall be severed and preserved,  
6 and shall remain in effect. All constitutionally valid  
7 applications of the provisions in this chapter shall be severed  
8 from any applications that a court finds to be invalid, preempted,  
9 or unconstitutional, because it is the legislature's intent and  
10 priority that every single valid application of every statutory  
11 provision be allowed to stand alone.

12        (c) The legislature further declares that it would have  
13 enacted this chapter, and each provision, section, subsection,  
14 sentence, clause, phrase, or word, and all constitutional  
15 applications of the provisions of this chapter, irrespective of the  
16 fact that any provision, section, subsection, sentence, clause,  
17 phrase, or word, or applications of this chapter were to be declared  
18 invalid, preempted, or unconstitutional.

19        (d) If any provision of this chapter is found by any court to  
20 be unconstitutionally vague, then the applications of that  
21 provision that do not present constitutional vagueness problems  
22 shall be severed and remain in force, consistent with the  
23 severability requirements of Subsections (a), (b), and (c).

24        (e) No court may decline to enforce the severability  
25 requirements of Subsections (a), (b), (c), and (d) on the ground  
26 that severance would "rewrite" the statute or involve the court in  
27 legislative or lawmaking activity. A court that declines to

1 enforce or enjoins a state official from enforcing a statutory  
2 provision is never rewriting a statute or engaging in legislative  
3 or lawmaking activity, as the statute continues to contain the same  
4 words as before the court's decision. A judicial injunction or  
5 declaration of unconstitutionality:

6 (1) is nothing more than an edict prohibiting  
7 enforcement of the disputed statute against the named parties to  
8 that lawsuit, which may subsequently be vacated by a later court if  
9 that court has a different understanding of the requirements of the  
10 Texas Constitution or the United States Constitution or federal  
11 law;

12 (2) is not a formal amendment of the language in a  
13 statute; and

14 (3) no more rewrites a statute than a decision by the  
15 executive not to enforce a duly enacted statute in a limited and  
16 defined set of circumstances.

17 (f) If any state or federal court disregards any of the  
18 severability requirements in Subsections (a), (b), (c), (d), or  
19 (e), and declares or finds any provision of this chapter facially  
20 invalid, preempted, or unconstitutional, when there are discrete  
21 applications of that provision that can be enforced against a  
22 person, group of persons, or circumstances without violating  
23 federal law or the federal or state constitutions, then that  
24 provision shall be interpreted, as a matter of state law, as if the  
25 legislature had enacted a provision limited to the persons, group  
26 of persons, or circumstances for which the provision's application  
27 will not violate federal law or the federal or state constitutions,

1 and every court shall adopt this saving construction of that  
2 provision until the court ruling that pronounced the provision  
3 facially invalid, preempted, or unconstitutional is vacated or  
4 overruled.

5 ARTICLE 5. LEGISLATIVE OVERSIGHT

6 SECTION 5.01. Subtitle C, Title 3, Government Code, is  
7 amended by adding Chapter 331 to read as follows:

8 CHAPTER 331. LEGISLATIVE BORDER SAFETY OVERSIGHT COMMITTEE

9 Sec. 331.001. DEFINITION. In this section, "committee"  
10 means the legislative border safety oversight committee  
11 established under this chapter.

12 Sec. 331.002. ESTABLISHMENT; COMPOSITION. (a) The  
13 legislative border safety oversight committee is established to:

14 (1) provide objective research, analysis, and  
15 recommendations to help guide state border safety policies;

16 (2) provide oversight for the border protection unit  
17 established under Chapter C-1, Chapter 411; and

18 (3) perform other duties required by law.

19 (b) The committee consists of the following members:

20 (1) the lieutenant governor;

21 (2) the speaker of the house of representatives;

22 (3) four members of the senate appointed by the  
23 lieutenant governor; and

24 (4) four members of the house appointed by the  
25 speaker.

26 (c) The lieutenant governor and the speaker of the house of  
27 representatives are joint chairs of the committee.

1       (d) A majority of the members of the committee from each  
2 house of the legislature constitutes a quorum to transact business.  
3 If a quorum is present, the committee may act on any matter within  
4 the committee's jurisdiction by a majority vote.

5       (e) The committee shall meet as often as necessary to  
6 perform the committee's duties. Meetings may be held at any time at  
7 the request of either chair or on written petition of a majority of  
8 the committee members from each house of the legislature.

9       (f) The committee shall meet in Austin, except that if a  
10 majority of the committee members from each house of the  
11 legislature agree, the committee may meet in any location  
12 determined by the committee.

13       (g) As an exception to Chapter 551, Government Code, and  
14 other law, for a meeting in Austin at which both joint chairs of the  
15 committee are physically present, any number of the other committee  
16 members may attend the meeting by use of telephone conference call,  
17 video conference call, or other similar telecommunication device.  
18 This subsection applies for purposes of establishing a quorum or  
19 voting or any other purpose allowing the members to fully  
20 participate in any committee meeting. This subsection applies  
21 without regard to the subject or topics considered by the members at  
22 the meeting.

23       (h) A committee meeting held by use of telephone conference  
24 call, video conference call, or other similar telecommunication  
25 device:

26               (1) is subject to the notice requirements applicable  
27 to other meetings;



1           (2) must specify in the notice of the meeting the  
2 location in Austin at which the joint chairs will be physically  
3 present;

4           (3) must be open to the public and audible to the  
5 public at the location specified in the notice under Subdivision  
6 (2); and

7           (4) must provide two-way audio communication between  
8 all committee members attending the meeting during the entire  
9 meeting, and if the two-way audio communication link with any  
10 member attending the meeting is disrupted at any time, the meeting  
11 may not continue until the two-way audio communication link is  
12 reestablished.

13           Sec. 331.003. POWERS AND DUTIES. (a) The committee shall:

14           (1) use statistical analyses and other research  
15 methods to conduct an in-depth examination of border safety  
16 initiatives and programs in this state that includes:

17                   (A) an assessment of the cost-effectiveness of  
18 the use of state and local funds in ensuring border safety;

19                   (B) an identification of critical border safety  
20 problems; and

21                   (C) a determination of the state's long-range  
22 border safety needs;

23           (2) recommend to the legislature:

24                   (A) strategies to solve the problems identified  
25 under Subdivision (1)(B); and

26                   (B) policy priorities to address the long-range  
27 needs determined under Subdivision (1)(C); and

1           (3) advise and assist the legislature in developing  
2 plans, programs, and proposed legislation to improve the  
3 effectiveness of border safety initiatives and programs.

4           (b) The committee has all other powers and duties provided  
5 to a special committee by:

6                 (1) Subchapter B, Chapter 301;

7                 (2) the rules of the senate and the house of  
8 representatives; and

9                 (3) policies of the senate and house committees on  
10 administration.

11           Sec. 331.004. STAFF; AUTHORITY TO CONTRACT. The committee  
12 may hire staff or may contract with universities or other suitable  
13 entities to assist the committee in carrying out the committee's  
14 duties. Funding to support the operation of the committee shall be  
15 provided from funds appropriated to the Texas Legislative Council.

16           Sec. 328.005. REPORT. Not later than January 1 of each  
17 odd-numbered year, the committee shall submit to the legislature a  
18 report that contains the recommendations described by Section  
19 331.003(a)(2).

20           ARTICLE 6. SEVERABILITY; EFFECTIVE DATE

21           SECTION 6.01. If any provision of this Act or its  
22 application to any person or circumstance is held invalid, the  
23 invalidity does not affect other provisions or applications of this  
24 Act that can be given effect without the invalid provision or  
25 application, and to this end the provisions of this Act are declared  
26 to be severable.

27           SECTION 6.02. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each  
2 house, as provided by Section 39, Article III, Texas Constitution.  
3 If this Act does not receive the vote necessary for immediate  
4 effect, this Act takes effect September 1, 2023.