

BILL ANALYSIS

Senate Research Center

S.B. 602
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Border Security
5/23/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, U.S. Border Patrol Agents are only allowed to detain individuals suspected of committing a felony offense pending transfer to a peace officer. They are only permitted to exercise this authority at established border patrol checkpoints and points of entry. This authority does not include the power to arrest or conduct search and seizure. However, over fifteen other federal agencies have the authority to arrest, detain, or search individuals suspected of felony offenses anywhere in the state. This bill would provide U.S. Border Patrol Agents with the tools necessary to further combat the border crisis and align Border Patrol more closely with other federal agencies.

S.B. 602 amends current law relating to law enforcement powers of U.S. Border Patrol Agents for state criminal offenses. This bill would grant a U.S. Border Patrol Agent the powers of a Texas peace officer to arrest and conduct search and seizure for any offense under Texas or federal law, even outside their designated locations such as a port of entry.

S.B. 602 amends the language to limit this authority to state felonies and the border region. It also requires a notification letter from the Office of the Attorney General to each of the border sectors.

S.B. 602 amends current law relating to the law enforcement authority of federal border patrol agents.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2.122, Code of Criminal Procedure, by adding Subsection (c-1), as follows:

(c-1) Provides that a Border Patrol Agent of the United States Customs and Border Protection who completed the training program described by Section 411.02093, Government Code, in addition to the powers granted under Subsection (c) (relating to providing that a customs and border protection officer or border patrol agent has the authority to detain a person pending transfer without unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in certain conduct), has the powers of arrest and search and seizure as to any felony offense under the laws of this state if the arrest, search, or seizure:

(1) occurs on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry or at a border patrol traffic checkpoint; and

(2) is incident to a detainment under federal law.

SECTION 2. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.02093, as follows:

Sec. 411.02093. STATE CRIMINAL LAW TRAINING PROGRAM FOR BORDER PATROL AGENTS. (a) Requires the Department of Public Safety of the State of Texas (DPS) to:

(1) develop a training program for Border Patrol Agents of the United States Customs and Border Protection on the criminal laws of this state, including laws relating to arrest, search, and seizure; and

(2) on request, provide the training program developed under Subdivision (1) to a Border Patrol Agent.

(b) Authorizes DPS to enter into a written agreement with the United States Customs and Border Protection for purposes of providing the training program developed under this section.

SECTION 3. Requires the office of the attorney general, as soon as practicable after the effective date of this Act, to give written notice to the commanding authority of each United States border patrol sector in this state regarding the authority granted to border patrol agents by this Act and the circumstances under which this authority is authorized to be exercised.

SECTION 4. Effective date: upon passage or September 1, 2023.