

BILL ANALYSIS

Senate Research Center
88R6121 JCG-F

S.B. 602
By: Birdwell
Border Security
3/13/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background:

Under current law, United States Border Patrol Agents are only authorized to detain individuals suspected of committing a felony offense pending transfer to a peace officer. This power granted to United States Border Patrol Agents may only be carried out in certain designated locations, such as at a border patrol traffic checkpoint or port facility. This power does not include the authority to arrest or detain such individuals under state law. However, 15 other federal agencies are authorized to carry out the power to arrest, detain, or search individuals suspected of felony offenses anywhere in the state under the Texas Penal Code.

Purpose:

S.B. 602 amends current law relating to law enforcement powers of United States Border Patrol Agents for state criminal offenses. This bill would grant a United States 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. This grant of power would not qualify a United States Border Patrol Agent as a peace officer of the state. Currently, Texas has granted this power for state felony offenses to over 15 other federal agencies.

As proposed, 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 amending Subsection (c) and adding Subsection (h), as follows:

(c) Deletes existing text providing that a Border Patrol Agent of the United States Customs and Border Protection is not a peace officer under the laws of this state but, on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic checkpoint, 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 conduct that is a violation of certain statutes, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding. Makes a nonsubstantive change.

(h) Provides that a Border Patrol Agent of the United States Customs and Border Protection is not a peace officer but has the powers of arrest and search and seizure as to any offense under the laws of this state or federal law.

SECTION 2. Effective date: upon passage or September 1, 2023.