By:  Guillen, et al. (Senate Sponsor - Birdwell) H.B. No. 7

(In the Senate - Received from the House May 11, 2023; May 11, 2023, read first time and referred to Committee on Border Security; May 19, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 3, Nays 2; May 19, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Flores          X

Blanco              X

Hinojosa            X

King            X

COMMITTEE SUBSTITUTE FOR H.B. No. 7 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force, and to compensate persons affected by those threats; increasing criminal penalties; creating criminal offenses.

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

ARTICLE 1. TEXAS BORDER FORCE; DEPARTMENT OF PUBLIC SAFETY BORDER SECURITY FUNCTIONS

SECTION 1.01.  Section 411.0043, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that:

(1)  the public is able to interact with the department on the Internet; and

(2)  the department's capability to conduct border security operations and similar functions is not impeded by the use of obsolete or outdated technologies.

(c)  The department shall periodically review emerging technologies that may be deployed for border security operations, including technologies and equipment described by Section 411.0285, to ensure the department consistently adopts innovative technologies and solutions for those operations.

SECTION 1.02.  Chapter 411, Government Code, is amended by adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. TEXAS BORDER FORCE

Sec. 411.0281.  DEFINITION. In this subchapter, "border force" means the Texas Border Force established under this subchapter.

Sec. 411.0282.  TEXAS BORDER FORCE; CHIEF. (a) The Texas Border Force is established in the Texas Rangers division of the department.

(b)  The chief of the Texas Rangers is the chief of the border force.

Sec. 411.0283.  BORDER OPERATIONS. The border force may conduct border security operations along the Texas-Mexico border, including:

(1)  law enforcement operations;

(2)  intelligence gathering, analysis, and dissemination;

(3)  coordination and command of state agencies conducting border security operations;

(4)  surveillance and detection of criminal activity, including improper entry of individuals from foreign nations and the smuggling of individuals and controlled substances, using cameras, unmanned aircraft, and other technologies;

(5)  interdiction of individuals committing criminal activity described by Subdivision (4);

(6)  coordination of local, state, and federal agencies conducting border security operations, including tactical operations such as special response teams, brush teams, and special weapons and tactics teams; and

(7)  training and education programs for the professional development of employees and agency partners carrying out border security operations.

Sec. 411.0284.  ASSIGNMENT OF TEXAS MILITARY FORCES SERVICE MEMBERS. (a) In this section, "Texas military forces" has the meaning assigned by Section 437.001.

(b)  The department, at the request of the chief of the border force, may enter into a written agreement with the Texas Military Department for the assignment of service members of the Texas military forces to the border force. The agreement may provide for reimbursement by the department for hiring, training, salary, and employee benefit costs incurred by the Texas military forces in connection with service members assigned to the border force.

Sec. 411.0285.  PURCHASE AND DEPLOYMENT OF CERTAIN TECHNOLOGY AND EQUIPMENT. (a) The department, at the request of the chief of the border force, shall purchase and deploy technology and equipment to enhance the border force's ability to detect and suppress criminal activity along the Texas-Mexico border, including:

(1)  stacked razor wire barriers;

(2)  buoy barriers; and

(3)  surveillance and detection technology to be deployed at and near each port of entry along the Texas-Mexico border to detect and deter the improper entry of individuals from foreign nations and the smuggling of individuals and controlled substances, such as fentanyl, cocaine, heroin, and methamphetamine.

(b)  The surveillance and detection technology described by Subsection (a)(3) may be used to inspect passenger and commercial vehicles passing through a port of entry or traveling in any direction within 30 miles of a port of entry.

(c)  The department shall employ a sufficient number of commercial vehicle inspectors to inspect vehicles using technology described by Subsection (a)(3).

Sec. 411.0286.  HIRING OFFICERS WITH PREVIOUS BORDER PATROL EXPERIENCE. Notwithstanding any other provision of law, the department may, at the time an officer is hired for the border force, elect to credit up to four years of experience as a Border Patrol Agent of the United States Customs and Border Protection for the purpose of calculating the officer's salary under Schedule C. All officers are subject to a one-year probationary period under Section 411.007(g) notwithstanding the officer's rank or salary classification.

Sec. 411.0287.  INCREASED STAFFING; CERTAIN TRAINING. (a) The border force may as necessary to conduct border security operations and ensure the safety of the public along the Texas-Mexico border:

(1)  recruit, employ, and train officers and other staff; and

(2)  contract for additional officers and staff to meet an increased need for border security operations.

(b)  The border force shall expand programs for training officers to serve as members of a brush team.

Sec. 411.0288.  REPORTS. At least once each calendar quarter and at other times determined necessary by the governor or the chief of the border force, the chief of the border force shall submit a report to the governor containing information requested by the governor concerning the border force's operations.

Sec. 411.0289.  NO LIMITATION ON BORDER FORCE AUTHORITY BY LOCAL GOVERNMENTS. A political subdivision, including a municipality, county, or special purpose district, may not by any means limit the jurisdiction or authority of the border force.

SECTION 1.03.  Chapter 820, Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. CERTAIN MILITARY SERVICE CREDIT

Sec. 820.021.  CERTAIN MILITARY SERVICE CREDIT WITHOUT PURCHASE. (a) A cash balance group member hired by the Department of Public Safety for the Texas Border Force under Subchapter B-2, Chapter 411, who served active federal duty in the armed forces of the United States and obtains a peace officer license issued under Chapter 1701, Occupations Code, while employed with the border force may establish military service credit not to exceed six months in the retirement system for the purposes described by Subsection (c) by submitting a request to the system in a form and manner prescribed by the system.

(b)  The retirement system shall grant the military service credit of a member who submits a request as provided by Subsection (a) after the system verifies that the member is a cash balance group member and served the military service required by that subsection.

(c)  Military service credit established under this section may be used only to determine whether the cash balance group member is eligible to retire and receive a cash balance annuity under this chapter. The service credit does not affect eligibility for any other purpose, including for purposes of determining eligibility to participate in the group benefits program established under Chapter 1551, Insurance Code.

SECTION 1.04.  Subchapter C, Chapter 2155, Government Code, is amended by adding Section 2155.151 to read as follows:

Sec. 2155.151.  CERTAIN PURCHASES BY DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Public Safety is delegated all purchasing functions relating to the purchase of technologies and equipment for use in border security operations, including technology and equipment described by Section 411.0285, to ensure the department consistently adopts innovative technologies and solutions for those operations.

(b)  The Department of Public Safety shall acquire goods and services under Subsection (a) by any procurement method that provides the best value to the department. The Department of Public Safety shall consider the best value standards listed in Section 2155.074.

(c)  At the request of the Department of Public Safety, the comptroller or the Department of Information Resources, as appropriate, shall procure goods and services described by Subsection (a) for the Department of Public Safety. The Department of Public Safety may use the services of the comptroller or the Department of Information Resources in procuring goods and services described by Subsection (a).

SECTION 1.05.  (a) In reviewing emerging technologies under Section 411.0043(c), Government Code, as added by this article, the Department of Public Safety shall hold a technology fair at which vendors of emerging technology that may be used for conducting border security operations demonstrate the capabilities of the products.

(b)  The event required by Subsection (a) of this section must be held not later than September 1, 2024.

ARTICLE 2. IMPROPER ENTRY

SECTION 2.01.  Chapter 38, Penal Code, is amended by adding Section 38.20 to read as follows:

Sec. 38.20.  IMPROPER ENTRY FROM FOREIGN NATION. (a) In this section, "alien" has the meaning assigned by 8 U.S.C. Section 1101, as that provision existed on January 1, 2023.

(b)  A person who is an alien commits an offense if the person:

(1)  enters or attempts to enter this state from a foreign nation at any location other than a lawful point of entry;

(2)  eludes examination or inspection by United States immigration officers; or

(3)  attempts to enter or obtains entry to this state from a foreign nation by an intentionally false or misleading representation or the intentional concealment of a material fact.

(c)  An offense under this section is a Class A misdemeanor, except that if it is shown on the trial of the offense that the person has previously been finally convicted of:

(1)  an offense under this section, the offense is a state jail felony;

(2)  a state jail felony described by Subdivision (1) or any other felony not listed in Article 42A.054(a), Code of Criminal Procedure, the offense is a felony of the second degree; or

(3)  a felony listed in Article 42A.054(a), Code of Criminal Procedure, the offense is a felony of the first degree.

(d)  It is an affirmative defense to prosecution under this section that:

(1)  the actor has been granted a federal immigration benefit entitling the actor to:

(A)  lawful presence in the United States; or

(B)  asylum under 8 U.S.C. Section 1158;

(2)  the actor's conduct does not constitute a violation of 8 U.S.C. Section 1325(a); or

(3)  the actor was approved for benefits under the federal Deferred Action for Childhood Arrivals program between June 15, 2012, and July 16, 2021.

(e)  For purposes of Subsection (d)(1), the following federal programs do not confer federal immigration benefits entitling the actor to lawful presence in the United States:

(1)  the Deferred Action for Parents of Americans and Lawful Permanent Residents; and

(2)  any program not enacted by the United States Congress that is a successor to or materially similar to the program described by Subdivision (1) or Subsection (d)(3).

(f)  A court may not abate the prosecution of an offense under this section on the basis that a federal determination regarding the immigration status of the actor is pending.

(g)  A law enforcement officer of the Department of Public Safety who arrests a person for an offense under this section shall, to the extent feasible, detain the person in a facility established under Operation Lone Star or a similar border security operation of this state.

ARTICLE 3. MINIMUM SENTENCES FOR SMUGGLING OFFENSES

SECTION 3.01.  Section 20.05(b), Penal Code, is amended to read as follows:

(b)  An offense under this section is a felony of the third degree with a term of imprisonment of 10 years, except that the offense is:

(1)  a felony of the second degree with a minimum term of imprisonment of 10 years if:

(A)  the actor commits the offense in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death;

(B)  the smuggled individual is a child younger than 18 years of age at the time of the offense;

(C)  the offense was committed with the intent to obtain a pecuniary benefit;

(D)  during the commission of the offense the actor, another party to the offense, or an individual assisted, guided, or directed by the actor knowingly possessed a firearm; or

(E)  the actor commits the offense under Subsection (a)(1)(B); or

(2)  a felony of the first degree with a minimum term of imprisonment of 10 years if:

(A)  it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or

(B)  the smuggled individual suffered serious bodily injury or death.

SECTION 3.02.  Sections 20.06(e) and (f), Penal Code, are amended to read as follows:

(e)  Except as provided by Subsections (f) and (g), an offense under this section is a felony of the second degree with a minimum term of imprisonment of 10 years.

(f)  An offense under this section is a felony of the first degree with a minimum term of imprisonment of 10 years if:

(1)  the conduct constituting an offense under Section 20.05 is conducted in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death; or

(2)  the smuggled individual is a child younger than 18 years of age at the time of the offense.

SECTION 3.03.  The changes in law made by this article apply only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense was committed before that date.

ARTICLE 4. FOREIGN TERRORIST ORGANIZATIONS

SECTION 4.01.  The heading to Subchapter D, Chapter 125, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG OR FOREIGN TERRORIST ORGANIZATION

SECTION 4.02.  Sections 125.061(1) and (3), Civil Practice and Remedies Code, are amended to read as follows:

(1)  "Combination," [~~and~~] "criminal street gang," and "foreign terrorist organization" have the meanings assigned by Section 71.01, Penal Code.

(3)  "Gang activity" means the following types of conduct:

(A)  organized criminal activity as described by Section 71.02, Penal Code;

(B)  terroristic threat as described by Section 22.07, Penal Code;

(C)  coercing, inducing, or soliciting [~~, or inducing gang~~] membership in a criminal street gang or foreign terrorist organization as described by Section 71.022(a) or (a-1), Penal Code;

(D)  criminal trespass as described by Section 30.05, Penal Code;

(E)  disorderly conduct as described by Section 42.01, Penal Code;

(F)  criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of $500 or more;

(G)  a graffiti offense in violation of Section 28.08, Penal Code;

(H)  a weapons offense in violation of Chapter 46, Penal Code; or

(I)  unlawful possession of a substance or other item in violation of Chapter 481, Health and Safety Code.

SECTION 4.03.  Section 125.062, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.062.  PUBLIC NUISANCE; COMBINATION. A combination, [~~or~~] criminal street gang, or foreign terrorist organization that continuously or regularly associates in gang activities is a public nuisance.

SECTION 4.04.  Section 125.063, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.063.  PUBLIC NUISANCE; USE OF PLACE. The habitual use of a place by a combination, [~~or~~] criminal street gang, or foreign terrorist organization for engaging in gang activity is a public nuisance.

SECTION 4.05.  Section 125.064(b), Civil Practice and Remedies Code, is amended to read as follows:

(b)  Any person who habitually associates with others to engage in gang activity as a member of a combination, [~~or~~] criminal street gang, or foreign terrorist organization may be made a defendant in the suit. Any person who owns or is responsible for maintaining a place that is habitually used for engaging in gang activity may be made a defendant in the suit.

SECTION 4.06.  Section 125.065(a), Civil Practice and Remedies Code, is amended to read as follows:

(a)  If the court finds that a combination, [~~or~~] criminal street gang, or foreign terrorist organization constitutes a public nuisance, the court may enter an order:

(1)  enjoining a defendant in the suit from engaging in the gang activities of the combination, [~~or~~] criminal street gang, or foreign terrorist organization; and

(2)  imposing other reasonable requirements to prevent the combination, [~~or~~] criminal street gang, or foreign terrorist organization from engaging in future gang activities.

SECTION 4.07.  Section 125.069, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.069.  USE OF PLACE; EVIDENCE. In an action brought under this subchapter, proof that gang activity by a member of a combination, [~~or~~] a criminal street gang, or a foreign terrorist organization is frequently committed at a place or proof that a place is frequently used for engaging in gang activity by a member of a combination, [~~or~~] a criminal street gang, or a foreign terrorist organization is prima facie evidence that the proprietor knowingly permitted the act, unless the act constitutes conspiring to commit gang activity.

SECTION 4.08.  Sections 125.070(b), (c), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(b)  A criminal street gang or foreign terrorist organization or a member of a criminal street gang or foreign terrorist organization is liable to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c)  In an action brought against a member of a criminal street gang or a member of a foreign terrorist organization, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(e)  The property of the criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization may be seized in execution on a judgment under this section.  Property may not be seized under this subsection if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or interest holder was not a member of the criminal street gang or foreign terrorist organization and did not violate the temporary or permanent injunctive order.  The owner or interest holder of property that is in the possession of a criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization and that is subject to execution under this subsection must show that the property:

(1)  was stolen from the owner or interest holder; or

(2)  was used or intended to be used without the effective consent of the owner or interest holder by the criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization.

SECTION 4.09.  Article 67.001, Code of Criminal Procedure, is amended by adding Subdivision (8-a) and amending Subdivision (9) to read as follows:

(8-a) "Foreign terrorist organization" has the meaning assigned by Section 71.01, Penal Code.

(9)  "Intelligence database" means a collection or compilation of data organized for search and retrieval to evaluate, analyze, disseminate, or use intelligence information relating to a combination, [~~or~~] criminal street gang, or foreign terrorist organization for the purpose of investigating or prosecuting a criminal offense.

SECTION 4.10.  Articles 67.051(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a)  Subject to Subsection (b), a criminal justice agency or juvenile justice agency shall compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of combinations, [~~or~~] criminal street gangs, or foreign terrorist organizations.

(b)  A law enforcement agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more shall compile and maintain in a local or regional intelligence database criminal information relating to a criminal street gang or a foreign terrorist organization as provided by Subsection (a).  The agency must compile and maintain the information in accordance with the criminal intelligence systems operating policies established under 28 C.F.R. Section 23.1 et seq. and the submission criteria established under Article 67.054(b).

SECTION 4.11.  Article 67.054(b), Code of Criminal Procedure, is amended to read as follows:

(b)  Criminal information collected under this chapter relating to a criminal street gang or foreign terrorist organization must:

(1)  be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2)  consist of:

(A)  a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang or foreign terrorist organization;

(B)  a self-admission by an individual of membership in a criminal street gang or foreign terrorist organization [~~membership~~] that is made during a judicial proceeding; or

(C)  except as provided by Subsection (c), any two of the following:

(i)  a self-admission by the individual of membership in a criminal street gang or foreign terrorist organization [~~membership~~] that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang or foreign terrorist organization;

(ii)  an identification of the individual as a member of a criminal street gang or foreign terrorist organization [~~member~~] by a reliable informant or other individual;

(iii)  a corroborated identification of the individual as a member of a criminal street gang or foreign terrorist organization [~~member~~] by an informant or other individual of unknown reliability;

(iv)  evidence that the individual frequents a documented area of a criminal street gang or foreign terrorist organization and associates with known members of a criminal street gang or foreign terrorist organization [~~members~~];

(v)  evidence that the individual uses, in more than an incidental manner, criminal street gang or foreign terrorist organization dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang or foreign terrorist organization that operates in an area frequented by the individual and described by Subparagraph (iv);

(vi)  evidence that the individual has been arrested or taken into custody with known members of a criminal street gang or foreign terrorist organization [~~members~~] for an offense or conduct consistent with [~~criminal street~~] gang activity as defined by Section 125.061, Civil Practice and Remedies Code;

(vii)  evidence that the individual has visited a known member of a criminal street gang or foreign terrorist organization [~~member~~], other than a family member of the individual, while the [~~gang~~] member is confined in or committed to a penal institution; or

(viii)  evidence of the individual's use of technology, including the Internet, to recruit new members of a criminal street gang or foreign terrorist organization [~~members~~].

SECTION 4.12.  Articles 67.102(a) and (d), Code of Criminal Procedure, are amended to read as follows:

(a)  Notwithstanding Chapter 58, Family Code, criminal information relating to a child associated with a combination, [~~or~~] criminal street gang, or foreign terrorist organization may be compiled and released under this chapter regardless of the age of the child.

(d)  The governing body of a county or municipality served by a law enforcement agency described by Article 67.051(b) may adopt a policy to notify the parent or guardian of a child of the agency's observations relating to the child's association with a criminal street gang or foreign terrorist organization.

SECTION 4.13.  Article 67.251, Code of Criminal Procedure, is amended to read as follows:

Art. 67.251.  ESTABLISHMENT OF GANG RESOURCE SYSTEM.  The office of the attorney general shall establish an electronic gang resource system to provide criminal justice agencies and juvenile justice agencies with information about criminal street gangs and foreign terrorist organizations in this state.

SECTION 4.14.  Articles 67.252(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a)  The gang resource system established under Article 67.251 may include the following information with regard to any gang or foreign terrorist organization:

(1)  gang or organization name;

(2)  gang or organization identifiers, such as colors used, tattoos, and clothing preferences;

(3)  criminal activities;

(4)  migration trends;

(5)  recruitment activities; and

(6)  a local law enforcement contact.

(b)  Information in the gang resource system shall be accessible according to:

(1)  municipality or county; and

(2)  gang or organization name.

SECTION 4.15.  Article 67.254(a), Code of Criminal Procedure, is amended to read as follows:

(a)  On request by the office of the attorney general, a criminal justice agency or juvenile justice agency shall make a reasonable attempt to provide gang and foreign terrorist organization information to the office of the attorney general for the purpose of maintaining an updated, comprehensive gang resource system.

SECTION 4.16.  Article 67.255, Code of Criminal Procedure, is amended to read as follows:

Art. 67.255.  USE OF INFORMATION.  Information in the gang resource system may be used in investigating [~~gang-related~~] crimes relating to a criminal street gang or foreign terrorist organization.  Information from the system may be included in an affidavit or subpoena or used in connection with any other legal or judicial proceeding only if the information is corroborated by information not provided by or maintained in the system.

SECTION 4.17.  Section 71.01, Penal Code, is amended by adding Subsection (e) to read as follows:

(e)  "Foreign terrorist organization" means three or more persons operating as an organization at least partially outside the United States who engage in criminal activity and threaten the security of this state or its residents, including but not limited to a drug cartel.

SECTION 4.18.  Section 71.02(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang or foreign terrorist organization, the person commits or conspires to commit one or more of the following:

(1)  murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or disabled individual, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2)  any gambling offense punishable as a Class A misdemeanor;

(3)  promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4)  unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5)  unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug:

(A)  through forgery, fraud, misrepresentation, or deception; or

(B)  with the intent to deliver the controlled substance or dangerous drug;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6)  any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7)  any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8)  any felony offense under Chapter 32;

(9)  any offense under Chapter 36;

(10)  any offense under Chapter 34, 35, or 35A;

(11)  any offense under Section 37.11(a);

(12)  any offense under Chapter 20A;

(13)  any offense under Section 37.10;

(14)  any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15)  any offense under Section 42.10;

(16)  any offense under Section 46.06(a)(1) or 46.14;

(17)  any offense under Section 20.05, [~~or~~] 20.06, or 20.07;

(18)  any offense under Section 16.02; or

(19)  any offense classified as a felony under the Tax Code.

SECTION 4.19.  The heading to Section 71.022, Penal Code, is amended to read as follows:

Sec. 71.022.  COERCING, INDUCING, OR SOLICITING MEMBERSHIP IN A CRIMINAL STREET GANG OR FOREIGN TERRORIST ORGANIZATION.

SECTION 4.20.  Sections 71.022(a) and (a-1), Penal Code, are amended to read as follows:

(a)  A person commits an offense if the person knowingly causes, enables, encourages, recruits, or solicits another person to become a member of a criminal street gang or foreign terrorist organization which, as a condition of initiation, admission, membership, or continued membership, requires the commission of any conduct which constitutes an offense punishable as a Class A misdemeanor or a felony.

(a-1)  A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang or foreign terrorist organization, the person:

(1)  threatens the child or a member of the child's family with imminent bodily injury; or

(2)  causes bodily injury to the child or a member of the child's family.

SECTION 4.21.  Section 71.023, Penal Code, is amended to read as follows:

Sec. 71.023.  DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS OR FOREIGN TERRORIST ORGANIZATIONS. (a)  A person commits an offense if the person, as part of the identifiable leadership of a criminal street gang or foreign terrorist organization, knowingly finances, directs, or supervises the commission of, or a conspiracy to commit, one or more of the following offenses by members of a criminal street gang or foreign terrorist organization:

(1)  a felony offense that is listed in Article 42A.054(a), Code of Criminal Procedure;

(2)  a felony offense for which it is shown that a deadly weapon, as defined by Section 1.07, was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; or

(3)  an offense that is punishable under Section 481.112(e) or (f), 481.1121(b)(4), 481.1123(d), (e), or (f), 481.115(f), or 481.120(b)(6), Health and Safety Code.

(b)  An offense under this section is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years.

SECTION 4.22.  Chapter 125, Civil Practice and Remedies Code, as amended by this article, applies only to an action commenced on or after the effective date of this article. An action commenced before the effective date of this article is governed by the law as it existed immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 4.23.  Chapter 71, Penal Code, as amended by this article, applies only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before that date.

ARTICLE 5. LANDOWNER COMPENSATION FOR PROPERTY DAMAGE CAUSED BY CERTAIN CRIMINAL ACTIVITIES

SECTION 5.01.  Title 1, Code of Criminal Procedure, is amended by adding Chapter 56C to read as follows:

CHAPTER 56C. LANDOWNER COMPENSATION FOR PROPERTY DAMAGE CAUSED BY CERTAIN CRIMINAL ACTIVITIES

Art. 56C.001.  DEFINITIONS. In this chapter:

(1)  "Agricultural land" includes any land the use of which qualifies the land for appraisal based on agricultural use as defined under Subchapter D, Chapter 23, Tax Code.

(2)  "Border crime" means conduct:

(A)  constituting an offense under:

(i)  Subchapter D, Chapter 481, Health and Safety Code;

(ii)  Section 20.05 or 38.04, Penal Code; or

(iii)  Chapter 20A, Penal Code; and

(B)  involving transnational criminal activity.

(3)  "Trespasser" has the meaning assigned by Section 75.007, Civil Practice and Remedies Code.

Art. 56C.002. ADMINISTRATION; RULES. (a) The attorney general shall adopt rules to administer this chapter.

(b)  Subchapters A and B, Chapter 2001, Government Code, except Sections 2001.004(3) and 2001.005, apply to the attorney general.

(c)  The attorney general may delegate to a person in the attorney general's office a power or duty given to the attorney general under this chapter.

Art. 56C.003. LANDOWNER COMPENSATION PROGRAM. (a)  From money appropriated for the purpose, the attorney general shall establish and administer a program to compensate landowners who suffer real property damage on agricultural land caused by:

(1)  a trespasser as a result of an offense under Chapter 28, Penal Code, that was committed in the course of or in furtherance of a border crime; or

(2)  a law enforcement response to a trespasser who was engaged in a border crime.

(b)  The attorney general shall establish:

(1)  eligibility criteria for compensation under this article, including requirements for providing proof of eligibility for compensation;

(2)  application procedures;

(3)  criteria for evaluating applications and awarding compensation;

(4)  guidelines related to compensation amounts, provided that the maximum amount awarded per incident causing damage may not exceed $75,000; and

(5)  procedures for monitoring the use of compensation awarded under this article and ensuring compliance with any conditions of the award.

(c)  The attorney general may not award compensation under this article for real property damage caused by a trespasser described by Subsection (a)(1) unless the damage is documented in a written report by a law enforcement agency as having occurred in connection with a border crime.

(d)  In awarding compensation under this article for real property damage caused by a trespasser described by Subsection (a)(1), the attorney general may not consider the outcome of any criminal prosecution arising out of the offense under Chapter 28, Penal Code, as a result of which the applicant suffered property damage or the applicable offense listed in Article 56C.001(2)(A).

Art. 56C.004. HEARINGS AND PREHEARING CONFERENCES. (a) The attorney general shall determine whether a hearing on an application for compensation under this chapter is necessary.

(b)  On determining that a hearing is not necessary, the attorney general may approve the application.

(c)  On determining that a hearing is necessary or on request for a hearing by the applicant, the attorney general shall consider the application at a hearing at a time and place of the attorney general's choosing. The attorney general shall notify all interested persons not later than the 10th day before the date of the hearing.

(d)  At the hearing the attorney general shall:

(1)  review the application for compensation; and

(2)  receive other evidence that the attorney general finds necessary or desirable to evaluate the application properly.

(e)  The attorney general may appoint hearing officers to conduct hearings or prehearing conferences under this chapter.

(f)  A hearing or prehearing conference is open to the public unless the hearing officer or attorney general determines in a particular case that all or part of the hearing or conference should be held in private because a private hearing or conference is in the interest of the applicant.

(g)  Subchapters C through H, Chapter 2001, Government Code, do not apply to the attorney general or the attorney general's orders and decisions.

Art. 56C.005.  ANNUAL REPORT. Not later than the 100th day after the end of each state fiscal year, the attorney general shall submit to the governor and the legislature a report on the attorney general's activities under this chapter during the preceding fiscal year that includes the following information, disaggregated by each offense listed in Article 56C.001(2)(A):

(1)  the number of applications made;

(2)  the number of applicants receiving compensation; and

(3)  the amount of compensation awarded.

Art. 56C.006.  PAYER OF LAST RESORT. (a) The program established under Article 56C.003 is a payer of last resort for real property damage described by that article.

(b) The attorney general may not award compensation to an applicant under Article 56C.003 if the attorney general determines that the applicant:

(1) is eligible for reimbursement from another source, including under an insurance contract or a state, local, or federal program; and

(2) failed to seek reimbursement from the source described by Subdivision (1).

Art. 56C.007.  EXPIRATION OF CHAPTER. This chapter expires on the second anniversary of the date that all money appropriated for the program established under this chapter has been expended.

ARTICLE 6. INTERAGENCY WORK GROUP ON BORDER ISSUES

SECTION 6.01.  Sections 772.011(a) and (b), Government Code, are amended to read as follows:

(a)  An interagency work group is created to:

(1)  develop or update a process to allow agencies to work together on issues that face border communities;

(2)  discuss and coordinate programs and services offered to border communities and residents of border communities; [~~and~~]

(3)  develop regulatory and legislative recommendations to eliminate duplication and combine program services;

(4)  identify and anticipate challenges and threats to agencies' operations along the Texas-Mexico border;

(5)  develop solutions to overcome the challenges and threats described by Subdivision (4); and

(6)  identify strategic opportunities agencies may use to enhance the capabilities and effectiveness of their roles in this state's operations along the Texas-Mexico border.

(b)  The work group is composed of:

(1)  the chair of the standing substantive committee of the senate with primary jurisdiction over border security, or the chair's designee;

(2)  the chair of the standing substantive committee of the house of representatives with primary jurisdiction over border security, or the chair's designee; and

(3)  the heads of the following agencies or their designees:

(A) [~~(1)~~]  the Texas Department of Rural Affairs;

(B) [~~(2)~~]  the Texas Department of Housing and Community Affairs;

(C) [~~(3)~~]  the Texas Water Development Board;

(D) [~~(4)~~]  the Texas Department of Transportation;

(E) [~~(5)~~]  the Texas Commission on Environmental Quality;

(F) [~~(6)~~]  the Texas Workforce Commission;

(G) [~~(7)~~]  the Department of State Health Services;

(H) [~~(8)~~]  the Health and Human Services Commission;

(I) [~~(9)~~]  the General Land Office;

(J) [~~(10)~~]  the Texas Economic Development and Tourism Office;

(K) [~~(11)~~]  the Office of State-Federal Relations;

(L) [~~(12)~~]  the Texas Higher Education Coordinating Board;

(M) [~~(13)~~]  the attorney general's office;

(N) [~~(14)~~]  the secretary of state's office;

(O) [~~(15)~~]  the Department of Public Safety; [~~and~~]

(P) [~~(16)~~]  the Railroad Commission of Texas;

(Q)  the Texas Division of Emergency Management;

(R)  the Texas Alcoholic Beverage Commission; and

(S)  the Texas Military Department.

ARTICLE 7. FINANCIAL ASSISTANCE FOR INFRASTRUCTURE, FACILITIES, EQUIPMENT, AND SERVICES IN THE BORDER REGION

SECTION 7.01.  Chapter 421, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. USE OF FUNDS FOR BORDER PROTECTION AND PUBLIC SAFETY

Sec. 421.111.  DEFINITIONS. In this subchapter:

(1)  "Border region" has the meaning assigned by Section 772.0071.

(2)  "Local government" means a municipality or county.

(3)  "Office" means the trusteed programs within the office of the governor.

Sec. 421.112.  USE OF CERTAIN FUNDS. From money appropriated for that purpose, the office, as authorized by Chapter 418, Government Code, including Subchapter D of that chapter, shall make funds available to state agencies and local governments for the following purposes:

(1)  the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region, including court facilities, processing facilities, detention facilities, criminal justice centers, and other similar facilities;

(2)  the construction of improvements to an area in the immediate vicinity of a port of entry to enhance vehicle inspection capabilities and assist in the investigation, interdiction, and prosecution of persons smuggling individuals or contraband across the Texas-Mexico border; and

(3)  the construction or improvement of roadways and similar transportation facilities in the border region that provide for detailed monitoring of commercial motor vehicles traveling along the roadways and facilities.

ARTICLE 8. BORDER PROTECTION AGREEMENTS

SECTION 8.01.  Title 7, Government Code, is amended by adding Chapter 794 to read as follows:

CHAPTER 794. BORDER PROTECTION AGREEMENTS WITH UNITED MEXICAN STATES

Sec. 794.001.  AUTHORITY FOR AGREEMENTS. On behalf of this state, the governor shall coordinate, develop, and execute agreements with the United Mexican States and the states of the United Mexican States regarding the authority of this state to protect and defend its citizens.

ARTICLE 9. SEVERABILITY; EFFECTIVE DATE

SECTION 9.01.  It is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this Act, and every application of the provisions in this Act to every person, group of persons, or circumstances, is severable from each other. If any application of any provision in this Act to any person, group of persons, or circumstances is found by a court to be invalid for any reason, the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected.

SECTION 9.02.  This Act takes effect September 1, 2023.

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