88R14285 JRR-D

By:  Guillen H.B. No. 3500

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain criminal conduct involving the smuggling of persons, the operation of a stash house, or evading an arrest or detention; increasing criminal penalties.

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

SECTION 1.  Sections 12.50(b) and (c), Penal Code, are amended to read as follows:

(b)  The increase in punishment authorized by this section applies only to an offense under:

(1)  Section 20.05;

(2)  Section 20.06;

(3)  Section 20.07;

(4)  Section 22.01;

(5) [~~(2)~~]  Section 28.02;

(6) [~~(3)~~]  Section 29.02;

(7) [~~(4)~~]  Section 30.02;

(8) [~~(5)~~]  Section 30.03;

(9) [~~(6)~~]  Section 30.04;

(10) [~~(7)~~]  Section 30.05; and

(11) [~~(8)~~]  Section 31.03.

(c)  If an offense listed under Subsection (b) [~~(b)(1), (5), (6), (7), or (8)~~] is punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. If an offense listed under Subsection (b) [~~(b)(2), (4), or (8)~~] is punishable as a felony of the first degree, the punishment for that offense may not be increased under this section. The minimum term of imprisonment for an offense listed under Subsection (b)(1), (2), or (3) for which punishment is increased under this section is 10 years.

SECTION 2.  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.  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 4.  Section 20.07(b), Penal Code, is amended to read as follows:

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

(1)  the offense is committed under Subsection (a)(1) and the property that is the subject of the offense is used to commit or facilitate the commission of an offense under Section 20.06, 20A.03, or 43.05; or

(2)  it is shown on the trial of the offense that as a direct result of the commission of the offense:

(A)  an 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)  an individual suffered serious bodily injury or death [~~Class A misdemeanor~~].

SECTION 5.  Section 22.01(b-1), Penal Code, is amended to read as follows:

(b-1)  Notwithstanding Subsection (b), an offense under Subsection (a)(1) is a felony of the third degree if:

(1)  it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2); or

(2)  the offense is committed:

(A) [~~(1)~~]  while the actor is committed to a civil commitment facility; and

(B) [~~(2)~~]  against:

(i) [~~(A)~~]  an officer or employee of the Texas Civil Commitment Office:

(a) [~~(i)~~]  while the officer or employee is lawfully discharging an official duty at a civil commitment facility; or

(b) [~~(ii)~~]  in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or

(ii) [~~(B)~~]  a person who contracts with the state to perform a service in a civil commitment facility or an employee of that person:

(a) [~~(i)~~]  while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by the state to provide the service; or

(b) [~~(ii)~~]  in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract.

SECTION 6.  Chapter 28, Penal Code, is amended by adding Section 28.10 to read as follows:

Sec. 28.10.  ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR STATE JAIL FELONIES. The punishment for an offense under this chapter that is punishable as a misdemeanor or a state jail felony is increased to the punishment for a felony of the third degree if it is shown on the trial of the offense that the actor committed the offense:

(1)  in the course of committing an offense under Section 20.05(a)(2); or

(2)  in the course of or for the purpose of engaging in conduct constituting an offense under Section 38.04.

SECTION 7.  Section 30.02, Penal Code, is amended by amending Subsection (c) and adding Subsection (c-2) to read as follows:

(c)  Except as provided in Subsection (c-1), (c-2), or (d), an offense under this section is a:

(1)  state jail felony if committed in a building other than a habitation; or

(2)  felony of the second degree if committed in a habitation.

(c-2)  An offense under this section is a felony of the third degree if:

(1)  the premises are a building other than a habitation; and

(2)  it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

SECTION 8.  Section 30.04(d), Penal Code, is amended to read as follows:

(d)  An offense under this section is a Class A misdemeanor, except that:

(1)  the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section;

(2)  the offense is a state jail felony if:

(A)  it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(B)  the vehicle or part of the vehicle broken into or entered is a rail car; and

(3)  the offense is a felony of the third degree if:

(A)  the vehicle broken into or entered is owned or operated by a wholesale distributor of prescription drugs[~~;~~] and

[~~(B)~~]  the actor breaks into or enters that vehicle with the intent to commit theft of a controlled substance; or

(B)  it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

SECTION 9.  Section 30.05(d), Penal Code, is amended to read as follows:

(d)  Subject to Subsection (d-3), an offense under this section is:

(1)  a Class B misdemeanor, except as provided by Subdivisions (2), [~~and~~] (3), and (4);

(2)  a Class C misdemeanor, except as provided by Subdivisions [~~Subdivision~~] (3) and (4), if the offense is committed:

(A)  on agricultural land and within 100 feet of the boundary of the land; or

(B)  on residential land and within 100 feet of a protected freshwater area; [~~and~~]

(3)  a Class A misdemeanor, except as provided by Subdivision (4), if:

(A)  the offense is committed:

(i)  in a habitation or a shelter center;

(ii)  on a Superfund site; or

(iii)  on or in a critical infrastructure facility;

(B)  the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i)  an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii)  an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education;

(C)  the person carries a deadly weapon during the commission of the offense; or

(D)  the offense is committed on the property of or within a general residential operation operating as a residential treatment center; and

(4)  a felony of the third degree if it is shown on the trial of the offense that the defendant committed the offense in the course of committing an offense under Section 20.05(a)(2).

SECTION 10.  Section 38.04, Penal Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  Notwithstanding Subsection (b), an offense under this section is a felony of the third degree if it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

SECTION 11.  The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act 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 Act if any element of the offense was committed before that date.

SECTION 12.  This Act takes effect September 1, 2023.