88R11919 SCP-F

By:  Hayes H.B. No. 4368

A BILL TO BE ENTITLED

AN ACT

relating to the protection of this state and its citizens from border invasion or imminent danger from border security breaches; creating a criminal offense.

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

SECTION 1.  Subtitle B, Title 4, Government Code, is amended by adding Chapter 425 to read as follows:

CHAPTER 425. BORDER INVASION AND IMMINENT DANGER

Sec. 425.001.  DEFINITIONS. In this chapter:

(1)  "Port of entry" has the meaning assigned by Section 621.001, Transportation Code.

(2)  "Remove" means to transfer and expel individuals in this state that have made an unlawful entry into the United States to a location outside the border of the United States.

(3)  "Repel" means to prevent the unlawful entry of individuals, vehicles, or other animate or inanimate objects into this state through the use of physical barriers, technology, or other rules of engagement. The term includes preventing the unauthorized entry of an individual at a port of entry.

(4)  "Texas military forces" means the Texas National Guard, the Texas State Guard, and any other military force organized under state law.

(5)  "Unlawful entry" means entering the United States at any place other than a legal port of entry.

Sec. 425.002.  DECLARATION OF INVASION OR IMMINENT DANGER. (a) The governor may issue a declaration of imminent danger if the governor finds that:

(1)  the safety and security of this state and its citizens are in imminent danger from threats by the unsecured southern border of this state; and

(2)  action to secure the border must be taken without delay.

(b)  The governor may issue a declaration of invasion if the governor finds that this state is under invasion.

(c)  The legislature may, by concurrent resolution adopted by both houses of the legislature, issue a declaration of imminent danger if the legislature finds that:

(1)  the safety and security of this state and its citizens are in imminent danger from threats by the unsecured southern border of this state; and

(2)  action to secure the border must be taken without delay.

(d)  The legislature may, by concurrent resolution adopted by both houses of the legislature, issue a declaration of invasion if the legislature finds that this state is under invasion.

Sec. 425.003.  REQUIREMENT TO REPEL OR REMOVE. (a) During a declaration of invasion or a declaration of imminent danger, the Texas military forces and any law enforcement or peace officer in this state shall take action necessary to repel any individual, vehicle, or other animate or inanimate object attempting to make an unlawful entry into this state.

(b)  An individual who has made an unlawful entry into this state shall be arrested and prosecuted for any violation of state law before the individual is removed.

Sec. 425.004.  TRANSPORT OF UNLAWFUL ENTRANTS PROHIBITED; OFFENSE; FORFEITURE. (a) An individual commits an offense if the individual knowingly transports another individual who has made an unlawful entry into this state during a declaration of imminent danger or declaration of invasion.

(b)  An offense under this section is punishable in the manner provided by Section 20.05(b), Penal Code, for the punishment of the offenses included in that section.

(c)  If a person is convicted of an offense under this section, the court in its judgment of conviction shall order the forfeiture of all contraband that is used in the commission of the offense, as provided by Chapter 59, Code of Criminal Procedure.

Sec. 425.005.  HANDOVER OF UNLAWFUL ENTRANTS TO FEDERAL AUTHORITIES PROHIBITED. During a declaration of imminent danger or a declaration of invasion, a member of the Texas military forces or a law enforcement or peace officer in this state is prohibited from handing over individuals who have made an unlawful entry to federal authorities if the policies under which the federal authority is operating would result in the release into the United States of individuals who have made an unlawful entry.

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