By:  Birdwell, Kolkhorst, Springer S.B. No. 2424

(In the Senate - Filed March 10, 2023; March 13, 2023, read first time and referred to Committee on Border Security; April 4, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 3, Nays 2; April 4, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Flores          X

Blanco              X

Hinojosa            X

King            X

COMMITTEE SUBSTITUTE FOR S.B. No. 2424 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the criminal offense of improper entry from a foreign nation.

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

SECTION 1.  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; or

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

(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;

(2)  the Deferred Action for Childhood Arrivals; and

(3)  any program that is a successor to or materially similar to a program described by Subdivision (1) or (2).

(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.

SECTION 2.  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 3.  This Act takes effect July 1, 2023, 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 effect on that date, this Act takes effect September 1, 2023.

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