

1-1 By: Guillen, et al. (Senate Sponsor - Flores) H.B. No. 800
1-2 (In the Senate - Received from the House May 11, 2023;
1-3 May 12, 2023, read first time and referred to Committee on Border
1-4 Security; May 19, 2023, reported favorably by the following vote:
1-5 Yeas 4, Nays 1; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Birdwell	X		
1-9	Flores	X		
1-10	Blanco		X	
1-11	Hinojosa	X		
1-12	King	X		

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to the punishment for certain criminal conduct involving
1-16 the smuggling of persons or the operation of a stash house;
1-17 increasing criminal penalties.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 3.03, Penal Code, is amended by amending
1-20 Subsection (a) and adding Subsections (c) and (d) to read as
1-21 follows:

1-22 (a) When the accused is found guilty of more than one
1-23 offense arising out of the same criminal episode prosecuted in a
1-24 single criminal action, a sentence for each offense for which the
1-25 accused ~~he~~ has been found guilty shall be pronounced. Except as
1-26 otherwise provided by this section [~~Subsection (b)~~], the sentences
1-27 shall run concurrently.

1-28 (c)(1) This subsection applies only to a single criminal
1-29 action in which the accused is found guilty of:

1-30 (A) an offense under Section 20.05(a)(2) or an
1-31 offense under Section 20.06 involving conduct constituting an
1-32 offense under Section 20.05(a)(2); and

1-33 (B) an offense punishable under Section
1-34 22.01(b-1)(1), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
1-35 38.04(b-1) that arises out of the same criminal episode as the
1-36 offense described by Paragraph (A).

1-37 (2) The sentence for an offense described by
1-38 Subdivision (1)(A) may run consecutively with each sentence for an
1-39 offense described by Subdivision (1)(B).

1-40 (3) If the accused is found guilty of more than one
1-41 offense described by Subdivision (1)(A), the sentences for those
1-42 offenses must run concurrently with each other.

1-43 (d) Except as otherwise provided by this subsection, if in a
1-44 single criminal action the accused is found guilty of more than one
1-45 offense arising out of the same criminal episode, the sentences may
1-46 run consecutively if each sentence is for a conviction of an offense
1-47 for which a plea agreement was reached in a case in which the
1-48 accused was charged with an offense described by Subsection
1-49 (c)(1)(A) and an offense described by Subsection (c)(1)(B). If the
1-50 accused is found guilty of more than one offense described by
1-51 Subsection (c)(1)(A), the sentences for those offenses must run
1-52 concurrently with each other.

1-53 SECTION 2. Section 12.50, Penal Code, is amended by
1-54 amending Subsections (a), (b), and (c) and adding Subsection (d) to
1-55 read as follows:

1-56 (a) Subject to Subsections [~~Subsection~~] (c) and (d), the
1-57 punishment for an offense described by Subsection (b) is increased
1-58 to the punishment prescribed for the next higher category of
1-59 offense if it is shown on the trial of the offense that the offense
1-60 was committed in an area that was, at the time of the offense:

1-61 (1) subject to a declaration of a state of disaster
1-62 made by:

2-1 (A) the president of the United States under the
 2-2 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
 2-3 U.S.C. Section 5121 et seq.);

2-4 (B) the governor under Section 418.014,
 2-5 Government Code; or

2-6 (C) the presiding officer of the governing body
 2-7 of a political subdivision under Section 418.108, Government Code;
 2-8 or

2-9 (2) subject to an emergency evacuation order.

2-10 (b) The increase in punishment authorized by this section
 2-11 applies only to an offense under:

2-12 (1) Section 20.05;

2-13 (2) Section 20.06;

2-14 (3) Section 20.07;

2-15 (4) Section 22.01;

2-16 (5) ~~[(2)]~~ Section 28.02;

2-17 (6) ~~[(3)]~~ Section 29.02;

2-18 (7) ~~[(4)]~~ Section 30.02;

2-19 (8) ~~[(5)]~~ Section 30.03;

2-20 (9) ~~[(6)]~~ Section 30.04;

2-21 (10) ~~[(7)]~~ Section 30.05; and

2-22 (11) ~~[(8)]~~ Section 31.03.

2-23 (c) If an offense listed under Subsection (b) ~~[(b)(1), (5),~~
 2-24 ~~(6), (7), or (8)]~~ is punishable as a Class A misdemeanor, the
 2-25 minimum term of confinement for the offense is increased to 180
 2-26 days. Except as provided by Subsection (d), if ~~[(If)]~~ an offense
 2-27 listed under Subsection (b) ~~[(b)(2), (4), or (8)]~~ is punishable as a
 2-28 felony of the first degree, the punishment for that offense may not
 2-29 be increased under this section.

2-30 (d) Except as otherwise provided by this subsection, the
 2-31 minimum term of imprisonment for an offense listed under Subsection
 2-32 (b)(1), (2), or (3) for which punishment is increased under this
 2-33 section is 10 years. If an offense listed under Subsection (b)(1)
 2-34 or (2) is punishable as a felony of the first degree, the minimum
 2-35 term of imprisonment is increased to 15 years unless another
 2-36 provision of law applicable to the offense provides for a minimum
 2-37 term of imprisonment of 15 years or more.

2-38 SECTION 3. Section 20.05, Penal Code, is amended by
 2-39 amending Subsection (b) and adding Subsection (b-1) to read as
 2-40 follows:

2-41 (b) Subject to Subsection (b-1), an ~~[(An)]~~ offense under this
 2-42 section is a felony of the third degree with a term of imprisonment
 2-43 of 10 years, except that the offense is:

2-44 (1) a felony of the second degree with a minimum term
 2-45 of imprisonment of 10 years if:

2-46 (A) the actor commits the offense in a manner
 2-47 that creates a substantial likelihood that the smuggled individual
 2-48 will suffer serious bodily injury or death;

2-49 (B) the smuggled individual is a child younger
 2-50 than 18 years of age at the time of the offense;

2-51 (C) the offense was committed with the intent to
 2-52 obtain a pecuniary benefit;

2-53 (D) during the commission of the offense the
 2-54 actor, another party to the offense, or an individual assisted,
 2-55 guided, or directed by the actor knowingly possessed a firearm; or

2-56 (E) the actor commits the offense under
 2-57 Subsection (a)(1)(B); or

2-58 (2) a felony of the first degree with a minimum term of
 2-59 imprisonment of 10 years if:

2-60 (A) it is shown on the trial of the offense that,
 2-61 as a direct result of the commission of the offense, the smuggled
 2-62 individual became a victim of sexual assault, as defined by Section
 2-63 22.011, or aggravated sexual assault, as defined by Section 22.021;
 2-64 or

2-65 (B) the smuggled individual suffered serious
 2-66 bodily injury or death.

2-67 (b-1) If at the punishment stage of the trial or at the time
 2-68 of entering a plea agreement for an offense under this section
 2-69 punishable as a felony of the third degree, the attorney

3-1 representing the state in the prosecution of the offense certifies
 3-2 to the court in writing that the actor has provided significant
 3-3 cooperation to the state or law enforcement, and describes the
 3-4 manner of cooperation, the minimum term of imprisonment is five
 3-5 years. The certification is confidential and shall be sealed by the
 3-6 court, except that the certification may be accessed by the office
 3-7 of the attorney representing the state, the attorney representing
 3-8 the defendant, and the court. For purposes of this subsection,
 3-9 "significant cooperation" includes:

- 3-10 (1) testifying in a trial on behalf of the state
- 3-11 against other parties to the offense;
- 3-12 (2) providing relevant information regarding the case
- 3-13 and other parties to the offense;
- 3-14 (3) providing information that furthers the
- 3-15 investigation of the charged offense and any other parties
- 3-16 involved; or
- 3-17 (4) providing information that aids law enforcement.

3-18 SECTION 4. Sections 20.06(e) and (f), Penal Code, are
 3-19 amended to read as follows:

3-20 (e) Except as provided by Subsections (f) and (g), an
 3-21 offense under this section is a felony of the second degree with a
 3-22 minimum term of imprisonment of 10 years.

3-23 (f) An offense under this section is a felony of the first
 3-24 degree with a minimum term of imprisonment of 10 years if:

- 3-25 (1) the conduct constituting an offense under Section
- 3-26 20.05 is conducted in a manner that creates a substantial
- 3-27 likelihood that the smuggled individual will suffer serious bodily
- 3-28 injury or death; or
- 3-29 (2) the smuggled individual is a child younger than 18
- 3-30 years of age at the time of the offense.

3-31 SECTION 5. Section 20.07(b), Penal Code, is amended to read
 3-32 as follows:

3-33 (b) An offense under this section is a felony of the third
 3-34 degree with a minimum term of imprisonment of five years, except
 3-35 that the offense is a felony of the second degree with a minimum
 3-36 term of imprisonment of five years if:

- 3-37 (1) the offense is committed under Subsection (a)(1)
- 3-38 and the property that is the subject of the offense is used to
- 3-39 commit or facilitate the commission of an offense under Section
- 3-40 20.06, 20A.03, or 43.05; or
- 3-41 (2) it is shown on the trial of the offense that as a
- 3-42 direct result of the commission of the offense:

- 3-43 (A) an individual became a victim of sexual
- 3-44 assault, as defined by Section 22.011, or aggravated sexual
- 3-45 assault, as defined by Section 22.021; or
- 3-46 (B) an individual suffered serious bodily injury
- 3-47 or death [Class A misdemeanor].

3-48 SECTION 6. Section 22.01(b-1), Penal Code, is amended to
 3-49 read as follows:

3-50 (b-1) Notwithstanding Subsection (b), an offense under
 3-51 Subsection (a)(1) is a felony of the third degree if:

- 3-52 (1) it is shown on the trial of the offense that the
- 3-53 actor committed the offense in the course of committing an offense
- 3-54 under Section 20.05(a)(2); or

3-55 (2) the offense is committed:

- 3-56 (A) ~~[(1)]~~ while the actor is committed to a civil
- 3-57 commitment facility; and

3-58 (B) ~~[(2)]~~ against:

- 3-59 (i) ~~[(A)]~~ an officer or employee of the
- 3-60 Texas Civil Commitment Office:

- 3-61 (a) ~~[(i)]~~ while the officer or
- 3-62 employee is lawfully discharging an official duty at a civil
- 3-63 commitment facility; or

- 3-64 (b) ~~[(ii)]~~ in retaliation for or on
- 3-65 account of an exercise of official power or performance of an
- 3-66 official duty by the officer or employee; or

- 3-67 (ii) ~~[(B)]~~ a person who contracts with the
- 3-68 state to perform a service in a civil commitment facility or an
- 3-69 employee of that person:

4-1 (a) [~~(i)~~] while the person or
 4-2 employee is engaged in performing a service within the scope of the
 4-3 contract, if the actor knows the person or employee is authorized by
 4-4 the state to provide the service; or

4-5 (b) [~~(ii)~~] in retaliation for or on
 4-6 account of the person's or employee's performance of a service
 4-7 within the scope of the contract.

4-8 SECTION 7. Chapter 28, Penal Code, is amended by adding
 4-9 Section 28.10 to read as follows:

4-10 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
 4-11 STATE JAIL FELONIES. The punishment for an offense under this
 4-12 chapter that is punishable as a misdemeanor or a state jail felony
 4-13 is increased to the punishment for a felony of the third degree if
 4-14 it is shown on the trial of the offense that the actor committed the
 4-15 offense in the course of committing an offense under Section
 4-16 20.05(a)(2).

4-17 SECTION 8. Section 30.02, Penal Code, is amended by
 4-18 amending Subsection (c) and adding Subsection (c-2) to read as
 4-19 follows:

4-20 (c) Except as provided in Subsection (c-1), (c-2), or (d),
 4-21 an offense under this section is a:

4-22 (1) state jail felony if committed in a building other
 4-23 than a habitation; or

4-24 (2) felony of the second degree if committed in a
 4-25 habitation.

4-26 (c-2) An offense under this section is a felony of the third
 4-27 degree if:

4-28 (1) the premises are a building other than a
 4-29 habitation; and

4-30 (2) it is shown on the trial of the offense that the
 4-31 actor committed the offense in the course of committing an offense
 4-32 under Section 20.05(a)(2).

4-33 SECTION 9. Section 30.04(d), Penal Code, is amended to read
 4-34 as follows:

4-35 (d) An offense under this section is a Class A misdemeanor,
 4-36 except that:

4-37 (1) the offense is a Class A misdemeanor with a minimum
 4-38 term of confinement of six months if it is shown on the trial of the
 4-39 offense that the defendant has been previously convicted of an
 4-40 offense under this section;

4-41 (2) the offense is a state jail felony if:

4-42 (A) it is shown on the trial of the offense that
 4-43 the defendant has been previously convicted two or more times of an
 4-44 offense under this section; or

4-45 (B) the vehicle or part of the vehicle broken
 4-46 into or entered is a rail car; and

4-47 (3) the offense is a felony of the third degree if:

4-48 (A) the vehicle broken into or entered is owned
 4-49 or operated by a wholesale distributor of prescription drugs~~+~~ and

4-50 ~~(B)~~ the actor breaks into or enters that
 4-51 vehicle with the intent to commit theft of a controlled substance;
 4-52 or

4-53 (B) it is shown on the trial of the offense that
 4-54 the actor committed the offense in the course of committing an
 4-55 offense under Section 20.05(a)(2).

4-56 SECTION 10. Section 30.05(d), Penal Code, is amended to
 4-57 read as follows:

4-58 (d) Subject to Subsection (d-3), an offense under this
 4-59 section is:

4-60 (1) a Class B misdemeanor, except as provided by
 4-61 Subdivisions (2), ~~and~~ (3), and (4);

4-62 (2) a Class C misdemeanor, except as provided by
 4-63 Subdivisions ~~Subdivision~~ (3) and (4), if the offense is
 4-64 committed:

4-65 (A) on agricultural land and within 100 feet of
 4-66 the boundary of the land; or

4-67 (B) on residential land and within 100 feet of a
 4-68 protected freshwater area; ~~and~~

4-69 (3) a Class A misdemeanor, except as provided by

5-1 Subdivision (4), if:
5-2 (A) the offense is committed:
5-3 (i) in a habitation or a shelter center;
5-4 (ii) on a Superfund site; or
5-5 (iii) on or in a critical infrastructure
5-6 facility;
5-7 (B) the offense is committed on or in property of
5-8 an institution of higher education and it is shown on the trial of
5-9 the offense that the person has previously been convicted of:
5-10 (i) an offense under this section relating
5-11 to entering or remaining on or in property of an institution of
5-12 higher education; or
5-13 (ii) an offense under Section 51.204(b)(1),
5-14 Education Code, relating to trespassing on the grounds of an
5-15 institution of higher education;
5-16 (C) the person carries a deadly weapon during the
5-17 commission of the offense; or
5-18 (D) the offense is committed on the property of
5-19 or within a general residential operation operating as a
5-20 residential treatment center; and
5-21 (4) a felony of the third degree if it is shown on the
5-22 trial of the offense that the defendant committed the offense in the
5-23 course of committing an offense under Section 20.05(a)(2).
5-24 SECTION 11. Section 38.04, Penal Code, is amended by adding
5-25 Subsection (b-1) to read as follows:
5-26 (b-1) Notwithstanding Subsection (b), an offense under this
5-27 section is a felony of the third degree if it is shown on the trial
5-28 of the offense that the actor committed the offense in the course of
5-29 committing an offense under Section 20.05(a)(2).
5-30 SECTION 12. The changes in law made by this Act apply only
5-31 to an offense committed on or after the effective date of this Act.
5-32 An offense committed before the effective date of this Act is
5-33 governed by the law in effect on the date the offense was committed,
5-34 and the former law is continued in effect for that purpose. For
5-35 purposes of this section, an offense was committed before the
5-36 effective date of this Act if any element of the offense was
5-37 committed before that date.
5-38 SECTION 13. This Act takes effect September 1, 2023.

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