

By: Birdwell, et al.
(Hefner)

S.B. No. 2424

Substitute the following for S.B. No. 2424:

By: Slawson

C.S.S.B. No. 2424

A BILL TO BE ENTITLED

AN ACT

relating to illegal entry into this state from Mexico by a person who is not a citizen or legal permanent resident of the United States; creating criminal offenses.

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

SECTION 1. Title 10, Penal Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. ILLEGAL ENTRY FROM MEXICO

Sec. 51.01. DEFINITION. In this chapter, "port of entry" means a port of entry as designated by 19 C.F.R. Part 101.

Sec. 51.02. ILLEGAL ENTRY FROM MEXICO. (a) A person who is not a citizen or legal permanent resident of the United States commits an offense if the person enters or attempts to enter this state by crossing its border with Mexico at any place other than a port of entry.

(b) An offense under this section is a Class B misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor has previously been finally convicted of an offense under this section.

(c) A peace officer may, in lieu of arrest, remove a person detained for an offense under this section by collecting any identifying information the person may have, transporting the person to a port of entry, and ordering the person to return to Mexico.

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

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

9 Sec. 51.03. REFUSAL TO COMPLY WITH ORDER TO RETURN TO
10 MEXICO. (a) A person commits an offense if, following the
11 commission of an offense under Section 51.02(a), the person refuses
12 to comply with an order to return to Mexico delivered by a peace
13 officer under Section 51.02(c).

14 (b) An offense under this section is a felony of the second
15 degree.

16 SECTION 2. Section 102.002, Civil Practice and Remedies
17 Code, is amended by adding Subsection (b-1) to read as follows:

18 (b-1) A local government shall pay actual damages, court
19 costs, and attorney's fees awarded against an employee of the local
20 government if the damages arise from a cause of action resulting
21 from actions taken by the person to enforce Chapter 51, Penal Code,
22 during the course and scope of the person's employment for the local
23 government.

24 SECTION 3. Section 104.002(a), Civil Practice and Remedies
25 Code, is amended to read as follows:

26 (a) Except as provided by Subsection (b), the state is
27 liable for indemnification under this chapter only if the damages

1 are based on an act or omission by the person in the course and scope
2 of the person's office, employment, or contractual performance for
3 or service on behalf of the agency, institution, or department and
4 if:

5 (1) the damages arise out of a cause of action for
6 negligence, except a wilful or wrongful act or an act of gross
7 negligence; ~~[or]~~

8 (2) the damages arise out of a cause of action for
9 deprivation of a right, privilege, or immunity secured by the
10 constitution or laws of this state or the United States, except when
11 the court in its judgment or the jury in its verdict finds that the
12 person acted in bad faith, with conscious indifference or reckless
13 disregard; ~~[or]~~

14 (3) the damages arise out of a cause of action
15 resulting from actions taken by the person to enforce Chapter 51,
16 Penal Code; or

17 (4) indemnification is in the interest of the state as
18 determined by the attorney general or his designee.

19 SECTION 4. Section 157.903, Local Government Code, is
20 amended to read as follows:

21 Sec. 157.903. AUTHORITY TO INDEMNIFY ELECTED AND APPOINTED
22 COUNTY OFFICERS; INDEMNIFICATION REQUIRED IN CERTAIN CASES. (a)

23 The commissioners court of a county by order may provide for the
24 indemnification of an elected or appointed county officer against
25 personal liability for the loss of county funds, or loss of or
26 damage to personal property, incurred by the officer in the
27 performance of official duties if the loss was not the result of the

1 officer's negligence or criminal action.

2 (b) If a county adopts an indemnification order under
3 Subsection (a), the order must indemnify an elected or appointed
4 county officer for damages resulting from actions taken by the
5 officer to enforce Chapter 51, Penal Code, during the performance
6 of official duties.

7 SECTION 5. It is the intent of the legislature that every
8 provision, section, subsection, sentence, clause, phrase, or word
9 in this Act, and every application of the provisions in this Act to
10 every person, group of persons, or circumstances, is severable from
11 each other. If any application of any provision in this Act to any
12 person, group of persons, or circumstances is found by a court to be
13 invalid for any reason, the remaining applications of that
14 provision to all other persons and circumstances shall be severed
15 and may not be affected.

16 SECTION 6. This Act takes effect July 1, 2023, if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for effect on that
20 date, this Act takes effect September 1, 2023.