

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

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

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

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

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

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

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

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

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

officer's negligence or criminal action.

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

SECTION 5. 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 6. 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.