

SENATE AMENDMENTS

2nd Printing

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H.B. No. 7

A BILL TO BE ENTITLED

1 AN ACT
2 relating to border protection and economic development services,
3 programs, and other measures, including establishing educational
4 programs and the border protection unit, in this state to address
5 the effects of ongoing disasters, including disasters caused by
6 transnational and other criminal activity and public health
7 threats.

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

9 ARTICLE 1. LEGISLATIVE FINDING

10 SECTION 1.01. The legislature, acting with the governor,
11 has the solemn duty to protect and defend the citizens of this state
12 and maintain sovereignty over this state's borders.

13 ARTICLE 2. BORDER PROTECTION AGREEMENTS

14 SECTION 2.01. Title 7, Government Code, is amended by
15 adding Chapter 794 to read as follows:

16 CHAPTER 794. BORDER PROTECTION AGREEMENTS WITH UNITED MEXICAN
17 STATES

18 Sec. 794.001. AUTHORITY FOR AGREEMENTS. On behalf of this
19 state, the governor may coordinate, develop, and execute agreements
20 with the United Mexican States and the states of the United Mexican
21 States regarding the authority of this state to protect and defend
22 its citizens.

23 ARTICLE 3. BORDER REGION COURT PROGRAM

24 SECTION 3.01. Chapter 72, Government Code, is amended by

1 adding Subchapter H to read as follows:

2 SUBCHAPTER H. BORDER PROTECTION COURT GRANT PROGRAM

3 Sec. 72.201. DEFINITIONS. In this subchapter:

4 (1) "Border-related offense" means an offense:

5 (A) associated with or involving:

6 (i) a person unlawfully entering or
7 attempting to enter this state by crossing the Texas-Mexico border
8 at any place other than at a port of entry;

9 (ii) the smuggling of individuals or
10 contraband across the Texas-Mexico border; or

11 (iii) an operative of a transnational
12 cartel;

13 (B) similar to an offense described by Paragraph
14 (A) that the office by rule defines as a border-related offense for
15 purposes of this subchapter; or

16 (C) for which the office has determined
17 prosecutions have significantly increased as a result of Operation
18 Lone Star.

19 (2) "Border region" has the meaning assigned by
20 Section 772.0071.

21 Sec. 72.202. GRANT PROGRAM. (a) From money appropriated
22 for that purpose, the office shall establish and administer a grant
23 program to support the operation of courts in the border region with
24 the adjudication of border-related offenses.

25 (b) In addition to other funds appropriated by the
26 legislature and for purposes of administering and funding the grant
27 program, the office may:

1 (1) seek and apply for any available federal funds;

2 and

3 (2) solicit and accept gifts, grants, and donations
4 from any other source, public or private, as necessary to ensure
5 resources are available to achieve the purpose described by
6 Subsection (a).

7 (c) The grants awarded under this subchapter may be used for
8 the reimbursement of costs associated with the operation of a
9 court, including the:

10 (1) salary of a visiting judge appointed under Chapter
11 74;

12 (2) salary and benefits of an associate judge, court
13 coordinator, court administrator, court reporter, and court
14 interpreter;

15 (3) salary and benefits of district and county clerk
16 staff;

17 (4) travel costs and other expenses incurred by court
18 personnel and judges in the performance of their duties;

19 (5) cost of equipment necessary for personnel
20 dedicated to the processing and adjudicating of border-related
21 offenses; or

22 (6) fees and related expenses for the appointment of
23 counsel to represent an indigent defendant under Chapter 26, Code
24 of Criminal Procedure, or the costs to operate a public defender's
25 office or managed assigned counsel program under that chapter, as
26 those fees and expenses relate to the adjudication of
27 border-related offenses.

1 Sec. 72.203. RULES. (a) The office shall adopt rules for
2 the administration and operation of the grant program established
3 under this subchapter.

4 (b) In adopting the rules, the office shall:

5 (1) conduct a study of the data collected for this
6 purpose or otherwise available on crime, arrests, detentions, and
7 convictions to identify offenses for which prosecutions have
8 increased as a result of Operation Lone Star; and

9 (2) solicit from governmental officials, community
10 leaders, and other interested persons in the border region
11 information necessary to identify the courts of the region needing
12 financial assistance.

13 (c) The rules must include:

14 (1) administrative provisions for grants awarded
15 under this subchapter, including:

16 (A) eligibility criteria for grant applicants,
17 including criteria to limit eligibility to those applicants
18 experiencing an increase in caseloads;

19 (B) grant application procedures;

20 (C) guidelines relating to grant amounts;

21 (D) procedures for evaluating grant
22 applications; and

23 (E) procedures for monitoring the use of grants;

24 (2) methods for tracking the effectiveness of grants
25 and the efficiency of the applicants receiving grants; and

26 (3) procedures for reporting caseload data at least
27 annually, including caseload data necessary to update the study

1 described by Section 72.2055.

2 Sec. 72.204. GRANT AMOUNTS. The amount of a grant awarded
3 under this section may not exceed the amount set by the General
4 Appropriations Act.

5 Sec. 72.205. REPORTING REQUIREMENTS FOR GRANT RECIPIENTS.
6 The recipient of a grant awarded under this subchapter shall submit
7 to the office an annual report on the grant money spent during the
8 year covered by the report and the purposes for which that money was
9 spent.

10 Sec. 72.2055. ANNUAL REPORT BY OFFICE. Annually, the
11 office shall update the study conducted under Section 72.203(b)(1)
12 using caseload data required to be reported under the rules adopted
13 under Section 72.203(c).

14 Sec. 72.206. ADMINISTRATIVE COSTS. Unless otherwise
15 provided by the appropriation, the office may use a reasonable
16 amount, not to exceed five percent, of any general revenue
17 appropriated for purposes of this subchapter to pay the costs of
18 administering the grant program.

19 SECTION 3.02. As soon as practicable after the effective
20 date of this Act, the Office of Court Administration of the Texas
21 Judicial System shall with respect to Subchapter H, Chapter 72,
22 Government Code, as added by this Act:

23 (1) adopt rules as necessary to implement the
24 subchapter; and

25 (2) establish the grant program required by the
26 subchapter.

ARTICLE 4. FINANCIAL ASSISTANCE FOR INFRASTRUCTURE, FACILITIES,
EQUIPMENT, AND SERVICES IN THE BORDER REGION

SECTION 4.01. Chapter 421, Government Code, is amended by
adding Subchapter G to read as follows:

SUBCHAPTER G. USE OF FUNDS FOR BORDER PROTECTION AND PUBLIC SAFETY

Sec. 421.111. DEFINITIONS. In this subchapter:

(1) "Border region" has the meaning assigned by
Section 772.0071.

(2) "Local government" means a municipality or county.

(3) "Office" means the trustee programs within the
office of the governor.

Sec. 421.112. USE OF CERTAIN FUNDS. From money
appropriated for that purpose, the office, as authorized by Chapter
418, including Subchapter D of that chapter, shall make funds
available to state agencies and local governments for the following
purposes:

(1) the construction and maintenance of facilities
related to prosecuting and adjudicating offenses committed in the
border region, including court facilities, processing facilities,
detention facilities for persons who are 10 years of age or older,
regardless of gender, criminal justice centers, and other similar
facilities;

(2) the payment of staff salaries and benefits and the
payment of operational expenses related to providing law
enforcement services;

(3) the purchase or maintenance of equipment related
to providing public health and safety services in the border

1 region, including law enforcement services, communication
2 services, and emergency services, to enhance the safety and
3 security of the citizens of this state;

4 (4) the construction and maintenance of temporary
5 border security infrastructure, including temporary barriers,
6 fences, wires, roads, trenches, surveillance technology, or other
7 improvements, designed or adapted to surveil or impede the movement
8 of persons or objects across the Texas-Mexico border at locations
9 other than ports of entry;

10 (5) the construction of improvements to an area in the
11 immediate vicinity of a port of entry to enhance vehicle inspection
12 capabilities and assist in the investigation, interdiction, and
13 prosecution of persons smuggling individuals or contraband across
14 the Texas-Mexico border; and

15 (6) the construction or improvement of roadways and
16 similar transportation facilities in the border region that provide
17 for detailed monitoring of commercial motor vehicles traveling
18 along the roadways and facilities.

19 Sec. 421.113. FEDERAL FUNDS; GIFTS, GRANTS, AND DONATIONS.
20 In addition to funds appropriated by the legislature and for
21 purposes of this subchapter, the office may:

22 (1) seek and apply for any available federal funds;
23 and

24 (2) solicit and accept gifts, grants, and donations
25 from any other source, public or private.

26 Sec. 421.114. RULES. The office may adopt rules for the
27 administration of this subchapter.

1 Sec. 421.115. REPORTING REQUIREMENTS. (a) The recipient
2 of funds for a purpose described by Section 421.112 shall submit to
3 the office reports on an interval prescribed by the office
4 regarding the use of the funds and any other issue related to the
5 funds as determined by the office.

6 (b) Funds received by a state agency for a purpose described
7 by Section 421.112 are considered border security funding for
8 purposes of reporting requirements in the General Appropriations
9 Act.

10 Sec. 421.116. ADMINISTRATIVE COSTS. Unless otherwise
11 provided by the appropriation, the division may use a reasonable
12 amount, not to exceed five percent, of any general revenue
13 appropriated for purposes of this subchapter to pay the costs of
14 administering this subchapter.

15 SECTION 4.02. As soon as practicable after the effective
16 date of this Act, the office of the governor shall adopt rules as
17 necessary to implement Subchapter G, Chapter 421, Government Code,
18 as added by this Act.

19 ARTICLE 5. BORDER PROTECTION PROPERTY DAMAGE PROGRAM

20 SECTION 5.01. Article 59.06(t)(1), Code of Criminal
21 Procedure, is amended to read as follows:

22 (t)(1) This subsection applies only to contraband for which
23 forfeiture is authorized with respect to an offense under Section
24 [~~20.05, 20.06,~~] 20.07, 43.04, or 43.05 or Chapter 20A, Penal Code.

25 SECTION 5.02. Article 59.06, Code of Criminal Procedure, is
26 amended by adding Subsection (v) to read as follows:

27 (v) Notwithstanding any other provision of this article,

1 with respect to forfeited property seized in connection with an
2 offense under Section 20.05 or 20.06, Penal Code, in a proceeding
3 under Article 59.05 in which judgment is rendered in favor of the
4 state, the attorney representing the state shall transfer the
5 proceeds from the sale of the forfeited property under Subsection
6 (a) to the comptroller for deposit to the credit of the border
7 property damage compensation program established under Chapter
8 56C.

9 SECTION 5.03. Title 1, Code of Criminal Procedure, is
10 amended by adding Chapter 56C to read as follows:

11 CHAPTER 56C. BORDER PROPERTY DAMAGE COMPENSATION PROGRAM

12 Art. 56C.001. DEFINITIONS. In this chapter:

13 (1) "Border crime" means conduct:

14 (A) constituting an offense under:

15 (i) Subchapter D, Chapter 481, Health and
16 Safety Code;

17 (ii) Section 20.05, 20.06, or 38.04, Penal
18 Code; or

19 (iii) Chapter 20A, Penal Code; and

20 (B) involving transnational criminal activity.

21 (2) "Border region" has the meaning assigned by
22 Section 772.0071, Government Code.

23 (3) "Trespasser" has the meaning assigned by Section
24 75.007, Civil Practice and Remedies Code.

25 Art. 56C.002. ADMINISTRATION; RULES. (a) The attorney
26 general shall adopt rules to administer this chapter.

27 (b) Subchapters A and B, Chapter 2001, Government Code,

1 except Sections 2001.004(3) and 2001.005, apply to the attorney
2 general.

3 (c) The attorney general may delegate to a person in the
4 attorney general's office a power or duty given to the attorney
5 general under this chapter.

6 Art. 56C.003. BORDER PROPERTY DAMAGE COMPENSATION PROGRAM.

7 (a) From the funding sources described by Subsection (b), the
8 attorney general shall establish and administer a program to
9 compensate persons residing in the border region who suffer real or
10 personal property damage caused by:

11 (1) a trespasser as a result of an offense under
12 Chapter 28, Penal Code, that was committed in the course of or in
13 furtherance of a border crime; or

14 (2) a law enforcement response to a trespasser who was
15 engaged in a border crime.

16 (b) The attorney general may use money from the following
17 sources to establish the program described by Subsection (a):

18 (1) money appropriated, credited, or transferred by
19 the legislature for purposes of the program;

20 (2) revenue that the legislature by statute dedicates
21 for deposit to the credit of the program;

22 (3) investment earnings and interest earned on money
23 held for purposes of administering the program;

24 (4) gifts, grants, and donations received by the state
25 for purposes of the program; and

26 (5) proceeds received under Article 59.06(v).

27 (c) The attorney general shall establish:

1 (1) eligibility criteria for compensation under this
2 article, including requirements for providing proof of eligibility
3 for compensation;

4 (2) application procedures;

5 (3) criteria for evaluating applications and awarding
6 compensation;

7 (4) guidelines related to compensation amounts,
8 provided that the maximum amount awarded per incident causing
9 damage may not exceed \$75,000; and

10 (5) procedures for monitoring the use of compensation
11 awarded under this article and ensuring compliance with any
12 conditions of the award.

13 (d) The attorney general may not award compensation under
14 this article for property damage caused by a trespasser described
15 by Subsection (a)(1) unless the damage is documented in a written
16 report by a law enforcement agency as having occurred in connection
17 with a border crime.

18 (e) In awarding compensation under this article for
19 property damage caused by a trespasser described by Subsection
20 (a)(1), the attorney general may not consider the outcome of any
21 criminal prosecution arising out of the offense under Chapter 28,
22 Penal Code, as a result of which the applicant suffered property
23 damage or the applicable offense listed in Article 56C.001(1)(A).

24 Art. 56C.004. HEARINGS AND PREHEARING CONFERENCES. (a)
25 The attorney general shall determine whether a hearing on an
26 application for compensation under this chapter is necessary.

27 (b) On determining that a hearing is not necessary, the

1 attorney general may approve the application.

2 (c) On determining that a hearing is necessary or on request
3 for a hearing by the applicant, the attorney general shall consider
4 the application at a hearing at a time and place of the attorney
5 general's choosing. The attorney general shall notify all
6 interested persons not later than the 10th day before the date of
7 the hearing.

8 (d) At the hearing the attorney general shall:

9 (1) review the application for compensation; and

10 (2) receive other evidence that the attorney general
11 finds necessary or desirable to evaluate the application properly.

12 (e) The attorney general may appoint hearing officers to
13 conduct hearings or prehearing conferences under this chapter.

14 (f) A hearing or prehearing conference is open to the public
15 unless the hearing officer or attorney general determines in a
16 particular case that all or part of the hearing or conference should
17 be held in private because a private hearing or conference is in the
18 interest of the applicant.

19 (g) Subchapters C through H, Chapter 2001, Government Code,
20 do not apply to the attorney general or the attorney general's
21 orders and decisions.

22 Art. 56C.005. ANNUAL REPORT. Not later than the 100th day
23 after the end of each state fiscal year, the attorney general shall
24 submit to the governor and the legislature a report on the attorney
25 general's activities under this chapter during the preceding fiscal
26 year that includes the following information, disaggregated by each
27 offense listed in Article 56C.001(1)(A):

- 1 (1) the number of applications made;
- 2 (2) the number of applicants receiving compensation;
- 3 and
- 4 (3) the amount of compensation awarded.

5 Art. 56C.006. PAYER OF LAST RESORT. (a) The program
6 established under Article 56C.003 is a payer of last resort for
7 property damage described by that article.

8 (b) The attorney general may not award compensation to an
9 applicant under Article 56C.003 if the attorney general determines
10 that the applicant:

11 (1) is eligible for reimbursement from another source,
12 including under an insurance contract or a state, local, or federal
13 program; and

14 (2) failed to seek reimbursement from the source
15 described by Subdivision (1).

16 ARTICLE 6. EDUCATIONAL PROGRAM

17 SECTION 6.01. Chapter 61, Education Code, is amended by
18 adding Subchapter D-1 to read as follows:

19 SUBCHAPTER D-1. BORDER INSTITUTION GRANT PROGRAM

20 Sec. 61.101. BORDER INSTITUTION GRANT PROGRAM. (a) In this
21 subchapter, "border region" has the meaning assigned by Section
22 772.0071, Government Code.

23 (b) Subject to the availability of funds, the board shall
24 establish a border institution grant program under which the board
25 awards financial assistance to institutions of higher education
26 located in the border region that administer innovative programs
27 designed to:

1 (1) recruit, train, retain, or otherwise increase the
2 number of professionals in fields related to border safety or
3 affected by ongoing criminal activity and public health threats to
4 the border region, as determined by board rule, including by
5 providing a salary increase or stipend to a faculty member who
6 provides instruction to additional students in a degree or
7 certificate program that graduates those professionals; and

8 (2) conduct research in areas of study related to
9 border safety or the effects of ongoing criminal activity and
10 public health threats to the border region.

11 Sec. 61.102. FEDERAL FUNDS AND GIFTS, GRANTS, AND
12 DONATIONS. In addition to other funds appropriated by the
13 legislature and for the purposes described by Section 61.101, the
14 board may:

15 (1) seek and apply for any available federal funds;
16 and

17 (2) solicit and accept gifts, grants, and donations
18 from any other source, public or private, as necessary to ensure
19 effective implementation of the grant program established under
20 this subchapter.

21 Sec. 61.103. RULES. (a) The board shall adopt rules for
22 the administration of the grant program established under this
23 subchapter. In adopting the rules, the board shall solicit, from
24 border region officials, community leaders in the border region,
25 and other stakeholders, information necessary to identify
26 innovative programs anticipated to produce the best outcomes and
27 serve the greatest need.

1 (b) The rules must include:

2 (1) administrative provisions for grants awarded
3 under this subchapter, including:

4 (A) eligibility criteria for institutions of
5 higher education, including a requirement that the institution
6 demonstrate regional and state workforce need;

7 (B) grant application procedures;

8 (C) guidelines relating to grant amounts;

9 (D) procedures for evaluating grant
10 applications; and

11 (E) procedures for monitoring the use of grants;
12 and

13 (2) methods for tracking the effectiveness of grants
14 that:

15 (A) using data reasonably available to the board,
16 consider relevant information regarding the career paths of
17 professionals described by Section 61.101 during the four-year
18 period following their graduation; and

19 (B) evaluate whether and for how long those
20 professionals practice in a field described by Section 61.101 in
21 this state.

22 Sec. 61.104. AWARD OF GRANTS. In awarding grants under this
23 subchapter, the board shall give priority to applicants that
24 propose to:

25 (1) enhance or leverage existing degree programs that
26 graduate professionals described by Section 61.101;

27 (2) establish or maintain a program that serves a

1 rural or underserved area;

2 (3) partner with another institution of higher
3 education to develop a joint program;

4 (4) establish or maintain a program that incentivizes
5 professionals described by Section 61.101 to serve in their field
6 or a related field of study for at least three consecutive years
7 following graduation; and

8 (5) establish or maintain a degree or certificate
9 program to educate professionals in specialties that face
10 significant workforce shortages, including those described by
11 Section 61.101.

12 Sec. 61.105. GRANT AMOUNTS. The amount of a grant awarded
13 under this subchapter may not exceed an amount specified in the
14 General Appropriations Act.

15 Sec. 61.106. REPORTING REQUIREMENTS. An institution of
16 higher education that receives a grant awarded under this
17 subchapter shall submit to the board an annual report on the amounts
18 and purposes for which grant money was spent during the year covered
19 by the report.

20 Sec. 61.107. ADMINISTRATIVE COSTS. Unless otherwise
21 provided by the appropriation, the board may use a reasonable
22 amount, not to exceed five percent, of any general revenue
23 appropriated for purposes of this subchapter to pay the costs of
24 administering this subchapter.

25 SECTION 6.02. (a) As soon as practicable after the
26 effective date of this Act, the Texas Higher Education Coordinating
27 Board shall adopt rules for the implementation and administration

1 of the border institution grant program established under
2 Subchapter D-1, Chapter 61, Education Code, as added by this Act.

3 (b) Not later than September 1, 2024, the Texas Higher
4 Education Coordinating Board shall establish the border
5 institution grant program required by Subchapter D-1, Chapter 61,
6 Education Code, as added by this Act, and shall begin to award
7 grants under the program as soon as practicable after the program is
8 established.

9 ARTICLE 7. ECONOMIC DEVELOPMENT INITIATIVE

10 SECTION 7.01. Chapter 481, Government Code, is amended by
11 adding Subchapter Q to read as follows:

12 SUBCHAPTER Q. BORDER PROTECTION ECONOMIC DEVELOPMENT INITIATIVE

13 Sec. 481.241. DEFINITION. In this subchapter, "border
14 region" has the meaning assigned by Section 772.0071.

15 Sec. 481.242. CAMPAIGN FOR BUSINESSES AND TOURISM. (a) In
16 consultation with stakeholders in the border region, the office
17 shall develop and execute a campaign to:

18 (1) attract domestic and foreign entities to:

19 (A) locate the headquarters of those entities in
20 the border region; or

21 (B) expand the entities' operations to the border
22 region;

23 (2) support and promote tourism in the border region;
24 and

25 (3) support institutions and initiatives in the border
26 region that create an environment conducive to starting or
27 operating a company whose primary business is providing homeland

1 security technology or services.

2 (b) The office may coordinate with and assist any
3 municipality, county, or other political subdivision in supporting
4 or promoting the purposes described by Subsection (a).

5 Sec. 481.243. TARGETED RESEARCH AND OUTREACH; SUPPORTIVE
6 PROGRAMS. (a) In developing and executing the campaign described
7 by Section 481.242, the office shall identify and research
8 particular companies and types of companies with a high potential
9 of commercial success if the companies were to operate in the border
10 region.

11 (b) For each company identified under Subsection (a), the
12 office shall develop and execute a campaign to attract the company
13 to locate its headquarters or expand operations into the border
14 region.

15 (c) For a type of company identified under Subsection (a),
16 the office shall create programs for supporting the formation of
17 new companies in the border region of that type, excluding direct
18 financial incentives to the company.

19 Sec. 481.244. GIFTS, GRANTS, AND DONATIONS. In addition to
20 funds appropriated, credited, or transferred by the legislature for
21 the purposes of this subchapter, the office shall:

22 (1) seek and apply for any available federal funds;
23 and

24 (2) solicit and accept gifts, grants, and donations
25 from any other source, public or private, as necessary to ensure
26 effective implementation of this subchapter.

27 Sec. 481.245. ANNUAL REPORT. Not later than December 31 of

1 each year, the office shall report to the legislature on the
2 activities of the office under this subchapter.

3 Sec. 481.246. ADMINISTRATIVE COSTS. Unless otherwise
4 provided by the appropriation, the office may use a reasonable
5 amount, not to exceed five percent, of any general revenue
6 appropriated for the purposes of this subchapter to administer this
7 subchapter.

8 ARTICLE 8. BORDER PROTECTION PROGRAM OF DEPARTMENT OF PUBLIC
9 SAFETY

10 SECTION 8.01. Article 2.12, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
13 officers:

14 (1) sheriffs, their deputies, and those reserve
15 deputies who hold a permanent peace officer license issued under
16 Chapter 1701, Occupations Code;

17 (2) constables, deputy constables, and those reserve
18 deputy constables who hold a permanent peace officer license issued
19 under Chapter 1701, Occupations Code;

20 (3) marshals or police officers of an incorporated
21 city, town, or village, and those reserve municipal police officers
22 who hold a permanent peace officer license issued under Chapter
23 1701, Occupations Code;

24 (4) rangers, officers, and members of the reserve
25 officer corps commissioned by:

26 (A) the Public Safety Commission; and

27 (B) either:

1 (i) the Director of the Department of
2 Public Safety; or

3 (ii) the unit chief of the Border
4 Protection Unit;

5 (5) investigators of the district attorneys', criminal
6 district attorneys', and county attorneys' offices;

7 (6) law enforcement agents of the Texas Alcoholic
8 Beverage Commission;

9 (7) each member of an arson investigating unit
10 commissioned by a city, a county, or the state;

11 (8) officers commissioned under Section 37.081,
12 Education Code, or Subchapter E, Chapter 51, Education Code;

13 (9) officers commissioned by the General Services
14 Commission;

15 (10) law enforcement officers commissioned by the
16 Parks and Wildlife Commission;

17 (11) officers commissioned under Chapter 23,
18 Transportation Code;

19 (12) municipal park and recreational patrolmen and
20 security officers;

21 (13) security officers and investigators commissioned
22 as peace officers by the comptroller;

23 (14) officers commissioned by a water control and
24 improvement district under Section 49.216, Water Code;

25 (15) officers commissioned by a board of trustees
26 under Chapter 54, Transportation Code;

27 (16) investigators commissioned by the Texas Medical

1 Board;

2 (17) officers commissioned by:

3 (A) the board of managers of the Dallas County
4 Hospital District, the Tarrant County Hospital District, the Bexar
5 County Hospital District, or the El Paso County Hospital District
6 under Section 281.057, Health and Safety Code;

7 (B) the board of directors of the Ector County
8 Hospital District under Section 1024.117, Special District Local
9 Laws Code;

10 (C) the board of directors of the Midland County
11 Hospital District of Midland County, Texas, under Section 1061.121,
12 Special District Local Laws Code; and

13 (D) the board of hospital managers of the Lubbock
14 County Hospital District of Lubbock County, Texas, under Section
15 1053.113, Special District Local Laws Code;

16 (18) county park rangers commissioned under
17 Subchapter E, Chapter 351, Local Government Code;

18 (19) investigators employed by the Texas Racing
19 Commission;

20 (20) officers commissioned under Chapter 554,
21 Occupations Code;

22 (21) officers commissioned by the governing body of a
23 metropolitan rapid transit authority under Section 451.108,
24 Transportation Code, or by a regional transportation authority
25 under Section 452.110, Transportation Code;

26 (22) investigators commissioned by the attorney
27 general under Section 402.009, Government Code;

1 (23) security officers and investigators commissioned
2 as peace officers under Chapter 466, Government Code;

3 (24) officers appointed by an appellate court under
4 Subchapter F, Chapter 53, Government Code;

5 (25) officers commissioned by the state fire marshal
6 under Chapter 417, Government Code;

7 (26) an investigator commissioned by the commissioner
8 of insurance under Section 701.104, Insurance Code;

9 (27) apprehension specialists and inspectors general
10 commissioned by the Texas Juvenile Justice Department as officers
11 under Sections 242.102 and 243.052, Human Resources Code;

12 (28) officers appointed by the inspector general of
13 the Texas Department of Criminal Justice under Section 493.019,
14 Government Code;

15 (29) investigators commissioned by the Texas
16 Commission on Law Enforcement under Section 1701.160, Occupations
17 Code;

18 (30) commission investigators commissioned by the
19 Texas Private Security Board under Section 1702.061, Occupations
20 Code;

21 (31) the fire marshal and any officers, inspectors, or
22 investigators commissioned by an emergency services district under
23 Chapter 775, Health and Safety Code;

24 (32) officers commissioned by the State Board of
25 Dental Examiners under Section 254.013, Occupations Code, subject
26 to the limitations imposed by that section;

27 (33) investigators commissioned by the Texas Juvenile

1 Justice Department as officers under Section 221.011, Human
2 Resources Code; and

3 (34) the fire marshal and any related officers,
4 inspectors, or investigators commissioned by a county under
5 Subchapter B, Chapter 352, Local Government Code.

6 SECTION 8.02. Section 411.002(a), Government Code, is
7 amended to read as follows:

8 (a) The Department of Public Safety of the State of Texas is
9 an agency of the state to enforce the laws protecting the public
10 safety, ~~and~~ provide for the prevention and detection of crime,
11 and defend and secure the state's air, maritime, and land borders.

12 The department is composed of the Texas Rangers, the Texas Highway
13 Patrol, the Border Protection Unit, the administrative division,
14 and other divisions that the commission considers necessary.

15 SECTION 8.03. Section 411.004, Government Code, is amended
16 to read as follows:

17 Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The
18 commission shall:

19 (1) formulate plans and policies for:

20 (A) enforcement of state criminal, traffic, and
21 safety laws;

22 (B) prevention of crime;

23 (C) detection and apprehension of persons who
24 violate laws; ~~and~~

25 (D) education of citizens of this state in the
26 promotion of public safety and the observance of law; and

27 (E) defense and security of this state's air,

1 maritime, and land borders;

2 (2) organize the department and supervise its
3 operation;

4 (3) adopt rules considered necessary for carrying out
5 the department's work;

6 (4) maintain records of all proceedings and official
7 orders; and

8 (5) biennially submit a report of its work to the
9 governor and legislature, including the commission's and director's
10 recommendations.

11 SECTION 8.04. Section 411.006(a), Government Code, is
12 amended to read as follows:

13 (a) Subject to Section 411.556, the ~~[The]~~ director shall:

14 (1) be directly responsible to the commission for the
15 conduct of and act as executive director of the Texas Highway
16 Patrol, the Texas Rangers, and other administrative divisions and
17 departments assigned by the commission, other than the Border
18 Protection Unit ~~[the department's affairs];~~

19 (2) ~~[act as executive director of the department,~~
20 ~~(3)]~~ act with the commission in an advisory capacity,
21 without vote;

22 (3) ~~(4)]~~ adopt rules, subject to commission
23 approval, considered necessary for the control of the department;

24 (4) ~~(5)]~~ issue commissions as law enforcement
25 officers, under the commission's direction, to all members of the
26 Texas Rangers and the Texas Highway Patrol and to other officers of
27 the department;

1 (5) [~~(6)~~] appoint, with the advice and consent of the
2 commission, the head of a division or bureau provided for by this
3 chapter;

4 (6) [~~(7)~~] quarterly, annually, and biennially submit
5 to the commission detailed reports of the operation of the
6 department, including statements of its expenditures; and

7 (7) [~~(8)~~] prepare, swear to, submit to the governor,
8 and file in the department's records a quarterly statement
9 containing an itemized list of all money received and its source and
10 all money spent and the purposes for which it was spent.

11 SECTION 8.05. Section 411.007(a), Government Code, is
12 amended to read as follows:

13 (a) Subject to the provisions of this chapter, the director
14 may appoint, promote, reduce, suspend, or discharge any officer or
15 employee of the department, other than an officer or employee of the
16 Border Protection Unit.

17 SECTION 8.06. Section 411.017(a), Government Code, is
18 amended to read as follows:

19 (a) A person commits an offense if, without the director's
20 authorization, the person:

21 (1) manufactures, sells, or possesses a badge,
22 identification card, or other item bearing a department insignia or
23 an insignia deceptively similar to the department's;

24 (2) makes a copy or likeness of a badge,
25 identification card, or department insignia, with intent to use or
26 allow another to use the copy or likeness to produce an item bearing
27 the department insignia or an insignia deceptively similar to the

1 department's; or

2 (3) uses the term "Texas Department of Public Safety,"
3 "Department of Public Safety," "Texas Ranger," ~~[or]~~ "Texas Highway
4 Patrol," or "Border Protection Unit" in connection with an object,
5 with the intent to create the appearance that the object belongs to
6 or is being used by the department.

7 SECTION 8.07. Chapter 411, Government Code, is amended by
8 adding Subchapter S to read as follows:

9 SUBCHAPTER S. BORDER PROTECTION UNIT

10 Sec. 411.551. DEFINITIONS. In this subchapter:

11 (1) "Border region" has the meaning assigned by
12 Section 772.0071.

13 (2) "Unit" means the Border Protection Unit.

14 (3) "Unit chief" means the person appointed under
15 Section 411.555 as the unit chief.

16 Sec. 411.552. BORDER PROTECTION UNIT; TERM OF
17 AUTHORIZATION. (a) The unit is a division under the commission
18 consisting of the number of commissioned officers and other
19 employees authorized by the legislature.

20 (b) The unit is subject to appropriations by the legislature
21 and, unless continued in existence by the legislature, is abolished
22 December 31, 2030.

23 (c) This subchapter expires December 31, 2030.

24 Sec. 411.553. LIMITATION ON CERTAIN POWERS. The unit and
25 the department, as applicable, may provide law enforcement services
26 as authorized by this subchapter, including Sections 411.0095,
27 411.560(b), and 411.563, in a county in the border region only to

1 the extent authorized in writing by the commissioners court of that
2 county.

3 Sec. 411.554. HEADQUARTERS. The unit must be headquartered
4 in the border region.

5 Sec. 411.555. UNIT CHIEF. (a) The governor shall appoint a
6 United States citizen to serve as the unit chief of the Border
7 Protection Unit. The unit chief serves until removed by the
8 governor.

9 (b) The unit chief may appoint, with the advice and consent
10 of the commission, deputy unit chiefs and assistant unit chiefs who
11 shall perform the duties that the unit chief designates. Deputy
12 unit chiefs and assistant unit chiefs serve until removed by the
13 unit chief.

14 (c) The unit chief, deputy unit chiefs, and assistant unit
15 chiefs are entitled to annual salaries as provided by the
16 legislature.

17 Sec. 411.556. GENERAL POWERS AND DUTIES OF UNIT AND UNIT
18 CHIEF. (a) The unit chief shall:

19 (1) be directly responsible to the commission for all
20 conduct of the unit, but may be removed only by the governor under
21 Section 411.555;

22 (2) act as the executive director of the unit;

23 (3) act with the commission in an advisory capacity,
24 without vote;

25 (4) adopt rules, subject to commission approval,
26 considered necessary for the control and general administration of
27 the unit, including rules governing the procurement of facilities

1 and equipment for the unit and the training and working conditions
2 for unit personnel;

3 (5) issue commissions as law enforcement officers,
4 under the commission's direction, to members of the unit;

5 (6) create as necessary, with the advice and consent
6 of the commission, operational or administrative divisions within
7 the unit and appoint heads of those divisions;

8 (7) employ as necessary commissioned officers and
9 other employees to perform unit operations and functions;

10 (8) quarterly, annually, and biennially submit to the
11 commission detailed reports of the operation of the unit, including
12 statements of its expenditures; and

13 (9) prepare, swear to, submit to the governor, and
14 file in the unit's records a quarterly statement containing an
15 itemized list of all money received and its source and all money
16 spent and the purposes for which it was spent.

17 (b) The unit chief or unit chief's designee shall provide to
18 members of the commission and to employees of the unit, as often as
19 necessary, information regarding the requirements for office or
20 employment under this chapter, including information regarding a
21 person's responsibilities under applicable law relating to
22 standards of conduct for state officers or employees.

23 (c) Subject to Subsection (d), the following provisions
24 apply to the unit chief with respect to the unit in the same manner
25 as the provisions apply to the director with respect to the
26 department or, as applicable, apply to the unit when acting at the
27 direction of the unit chief in the same manner as the provisions

1 apply to the department when acting at the direction of the
2 director:

3 (1) Section 411.007;

4 (2) Section 411.0071;

5 (3) Section 411.0075;

6 (4) Section 411.0079;

7 (5) Section 411.009;

8 (6) Section 411.0095;

9 (7) Section 411.0097, as added by Section 3, Chapter
10 556 (H.B. 1239), Acts of the 79th Legislature, Regular Session,
11 2005;

12 (8) Section 411.0097, as added by Section 1, Chapter
13 693 (S.B. 293), Acts of the 79th Legislature, Regular Session,
14 2005;

15 (9) Section 411.0098;

16 (10) Section 411.013(b);

17 (11) Section 411.0131;

18 (12) Section 411.0132;

19 (13) Section 411.0141(e);

20 (14) Section 411.015;

21 (15) Section 411.016;

22 (16) Section 411.0161;

23 (17) Section 411.0162;

24 (18) Section 411.0163;

25 (19) Section 411.0164;

26 (20) Section 411.017;

27 (21) Section 411.018;

1 (22) Sections 411.0207(c)(1)-(5);

2 (23) Sections 411.0208(d) and (e);

3 (24) Section 411.0209;

4 (25) Section 411.02095;

5 (26) Section 411.0865;

6 (27) Section 411.087(e);

7 (28) Section 411.0891; and

8 (29) Section 411.154.

9 (d) The director may not exercise any operational or
10 administrative control over the unit chief or the unit. The unit
11 chief may not exercise any operational or administrative control
12 over the director or the department, other than the unit.

13 (e) The unit is a criminal justice agency for purposes of
14 this chapter.

15 (f) The unit is a law enforcement agency for purposes of
16 Section 411.1471(b).

17 (g) The unit may assist local law enforcement with the
18 investigation of crime.

19 Sec. 411.557. OFFICE OF AUDIT AND REVIEW FOR UNIT. The
20 governor shall establish the office of audit and review within the
21 unit and appoint the director of the office to perform the duties
22 under Subchapter I with respect to the unit. The director of the
23 office of audit and review of the unit shall serve until removed by
24 the governor.

25 Sec. 411.558. INSPECTOR GENERAL FOR UNIT. (a) The governor
26 shall establish the office of the inspector general within the unit
27 and appoint the inspector general of the unit who shall perform with

1 respect to the unit the duties of Subchapter I-1 or as may be
2 provided by other law. The inspector general of the unit shall
3 serve until removed by the governor.

4 (b) The inspector general of the unit is responsible for:

5 (1) preparing and delivering assessments concerning
6 the administration of the unit to the governor, the legislature,
7 and the unit chief;

8 (2) acting to prevent and detect serious breaches of
9 unit policy, fraud, and abuse of office, including any acts of
10 criminal conduct within the unit; and

11 (3) independently and objectively reviewing,
12 investigating, delegating, and overseeing the investigation of:

13 (A) conduct described by Subdivision (2);

14 (B) criminal activity occurring within the unit;

15 (C) allegations of wrongdoing by unit employees;

16 (D) crimes committed on unit property; and

17 (E) serious breaches of unit policy.

18 Sec. 411.559. OFFICERS; OTHER EMPLOYEES. (a) The unit
19 chief may employ commissioned officers meeting the qualifications
20 described by Section 411.561 to perform the duties of the unit.
21 Those officers are entitled to compensation as provided by the
22 legislature and must be recruited and trained within the border
23 region to the extent practicable.

24 (b) The unit chief may employ individuals who are not
25 officers as necessary to carry out the duties of the unit.

26 (c) Subject to the provisions of this chapter, the unit
27 chief may appoint, promote, reduce, suspend, or discharge any

1 officer or employee of the unit.

2 Sec. 411.5591. USE OF PERSONAL VEHICLE PROHIBITED.

3 Notwithstanding any other provision of this subchapter, an officer
4 or other employee of the unit may not use the officer's or
5 employee's personal vehicle to conduct a traffic stop for any
6 purpose related to the officer's or employee's duties.

7 Sec. 411.560. AUTHORITY OF OFFICERS. (a) A commissioned
8 officer of the unit is governed by the law regulating and defining
9 the powers and duties of sheriffs performing similar duties, except
10 that the officer may make arrests and execute processes in a
11 criminal case in any county in the border region.

12 (b) A commissioned officer of the unit may, to the extent
13 consistent with the United States and Texas Constitutions, arrest,
14 apprehend, or detain persons crossing the Texas-Mexico border
15 unlawfully, and deter persons attempting to cross the border
16 unlawfully, including with the use of non-deadly crowd control
17 measures.

18 Sec. 411.561. QUALIFICATIONS. (a) To be a commissioned
19 officer of the unit, a person must hold a peace officer license
20 issued under Chapter 1701, Occupations Code, and meet any other
21 qualifications set by the commission.

22 (a-1) The unit chief may not employ an officer or other
23 employee if the officer or other employee:

24 (1) has been convicted of a violent offense; or

25 (2) has been dishonorably discharged from the armed
26 forces of the United States or the Texas military forces as shown by
27 the service member's release or discharge documentation.

1 (a-2) For purposes of Subsection (a-1):

2 (1) "Texas military forces" has the meaning assigned
3 by Section 437.001.

4 (2) "Violent offense" means an offense under the law
5 of any state that has as an element the use, attempted use, or
6 threatened use of physical force against any person.

7 (b) The unit is an equal employment opportunity employer and
8 may not discriminate against or give preferential treatment to any
9 employee or job applicant on account of the individual's race,
10 color, sex, national origin, or religion.

11 Sec. 411.562. FACILITIES AND EQUIPMENT; TRAINING. The unit
12 shall acquire equipment and facilities and conduct training
13 necessary to fulfill the operational, intelligence, communication,
14 logistics, and administrative duties provided by this chapter and
15 the unit chief.

16 Sec. 411.563. LAW ENFORCEMENT BORDER PROTECTION FUNCTIONS.
17 The unit chief and director may order commissioned officers under
18 their authority to take, and the commissioned officers may take,
19 the following actions to the extent consistent with the United
20 States and Texas Constitutions:

21 (1) deter and repel persons attempting to enter this
22 state unlawfully at locations other than ports of entry;

23 (2) return aliens to Mexico who:
24 (A) have been observed actually crossing the
25 Texas-Mexico border unlawfully; and

26 (B) were apprehended, detained, or arrested in
27 the vicinity of the Texas-Mexico border; and

1 (3) enhance the examination of aircraft, ships,
2 vehicles, railcars, and cargo at or near ports of entry for the
3 purposes of interdicting fentanyl and other dangerous drugs and
4 interdicting human smuggling.

5 Sec. 411.564. OPERATIONAL PLAN TO COORDINATE BORDER
6 SECURITY. (a) The unit shall develop and recommend to the governor
7 and report to the legislature a strategic plan that establishes the
8 framework for the budget and operations of the unit, including
9 homeland security strategies and the assistance of other state and
10 local entities. The unit shall annually report to the governor and
11 the legislature on the implementation of the strategic plan.

12 (b) The unit shall include in the strategic plan goals,
13 objectives, and performance measures that involve collaboration
14 with other state agencies and local entities.

15 (c) The unit shall create plans and conduct operations
16 consistent with the strategic plan.

17 SECTION 8.08. As soon as practicable after the effective
18 date of this Act, the governor shall appoint the unit chief as
19 prescribed by Section 411.555, Government Code, as added by this
20 Act.

21 ARTICLE 9. SEVERABILITY

22 SECTION 9.01. (a) If any provision of this Act or its
23 application to any person or circumstance is held invalid, the
24 invalidity does not affect other provisions or applications of this
25 Act that can be given effect without the invalid provision or
26 application, and to this end the provisions of this Act are declared
27 to be severable.

1 (b) Subsection (a) of this section does not affect another
2 severability provision contained in this Act.

3 ARTICLE 10. EFFECTIVE DATE

4 SECTION 10.01. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2023.

ADOPTED

By: Brian Sidwell

MAY 24 2018 H.B. No. 7

Substitute the following for H.B. No. 7

By: Brian Sidwell

Lizette Law
Secretary of the Senate
C.S.H.B. No. 7

A BILL TO BE ENTITLED

AN ACT

1

2 relating to measures to address public safety threats in this state
3 presented by transnational criminal activity, including by
4 establishing a Texas Border Force, and to compensate persons
5 affected by those threats; increasing criminal penalties; creating
6 criminal offenses.

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

8 ARTICLE 1. TEXAS BORDER FORCE; DEPARTMENT OF PUBLIC SAFETY BORDER
9 SECURITY FUNCTIONS

10 SECTION 1.01. Section 411.0043, Government Code, is amended
11 by amending Subsection (a) and adding Subsection (c) to read as
12 follows:

13 (a) The commission shall implement a policy requiring the
14 department to use appropriate technological solutions to improve
15 the department's ability to perform its functions. The policy must
16 ensure that:

17 (1) the public is able to interact with the department
18 on the Internet; and

19 (2) the department's capability to conduct border
20 security operations and similar functions is not impeded by the use
21 of obsolete or outdated technologies.

22 (c) The department shall periodically review emerging
23 technologies that may be deployed for border security operations,
24 including technologies and equipment described by Section

1 411.0285, to ensure the department consistently adopts innovative
2 technologies and solutions for those operations.

3 SECTION 1.02. Chapter 411, Government Code, is amended by
4 adding Subchapter B-2 to read as follows:

5 SUBCHAPTER B-2. TEXAS BORDER FORCE

6 Sec. 411.0281. DEFINITION. In this subchapter, "border
7 force" means the Texas Border Force established under this
8 subchapter.

9 Sec. 411.0282. TEXAS BORDER FORCE; CHIEF. (a) The Texas
10 Border Force is established in the Texas Rangers division of the
11 department.

12 (b) The chief of the Texas Rangers is the chief of the border
13 force.

14 Sec. 411.0283. BORDER OPERATIONS. The border force may
15 conduct border security operations along the Texas-Mexico border,
16 including:

17 (1) law enforcement operations;

18 (2) intelligence gathering, analysis, and
19 dissemination;

20 (3) coordination and command of state agencies
21 conducting border security operations;

22 (4) surveillance and detection of criminal activity,
23 including improper entry of individuals from foreign nations and
24 the smuggling of individuals and controlled substances, using
25 cameras, unmanned aircraft, and other technologies;

26 (5) interdiction of individuals committing criminal
27 activity described by Subdivision (4);

1 (6) coordination of local, state, and federal agencies
2 conducting border security operations, including tactical
3 operations such as special response teams, brush teams, and special
4 weapons and tactics teams; and

5 (7) training and education programs for the
6 professional development of employees and agency partners carrying
7 out border security operations.

8 Sec. 411.0284. ASSIGNMENT OF TEXAS MILITARY FORCES SERVICE
9 MEMBERS. (a) In this section, "Texas military forces" has the
10 meaning assigned by Section 437.001.

11 (b) The department, at the request of the chief of the
12 border force, may enter into a written agreement with the Texas
13 Military Department for the assignment of service members of the
14 Texas military forces to the border force. The agreement may
15 provide for reimbursement by the department for hiring, training,
16 salary, and employee benefit costs incurred by the Texas military
17 forces in connection with service members assigned to the border
18 force.

19 Sec. 411.0285. PURCHASE AND DEPLOYMENT OF CERTAIN
20 TECHNOLOGY AND EQUIPMENT. (a) The department, at the request of
21 the chief of the border force, shall purchase and deploy technology
22 and equipment to enhance the border force's ability to detect and
23 suppress criminal activity along the Texas-Mexico border,
24 including:

25 (1) stacked razor wire barriers;

26 (2) buoy barriers; and

27 (3) surveillance and detection technology to be

1 deployed at and near each port of entry along the Texas-Mexico
2 border to detect and deter the improper entry of individuals from
3 foreign nations and the smuggling of individuals and controlled
4 substances, such as fentanyl, cocaine, heroin, and
5 methamphetamine.

6 (b) The surveillance and detection technology described by
7 Subsection (a)(3) may be used to inspect passenger and commercial
8 vehicles passing through a port of entry or traveling in any
9 direction within 30 miles of a port of entry.

10 (c) The department shall employ a sufficient number of
11 commercial vehicle inspectors to inspect vehicles using technology
12 described by Subsection (a)(3).

13 Sec. 411.0286. HIRING OFFICERS WITH PREVIOUS BORDER PATROL
14 EXPERIENCE. Notwithstanding any other provision of law, the
15 department may, at the time an officer is hired for the border
16 force, elect to credit up to four years of experience as a Border
17 Patrol Agent of the United States Customs and Border Protection for
18 the purpose of calculating the officer's salary under Schedule C.
19 All officers are subject to a one-year probationary period under
20 Section 411.007(g) notwithstanding the officer's rank or salary
21 classification.

22 Sec. 411.0287. INCREASED STAFFING; CERTAIN TRAINING. (a)
23 The border force may as necessary to conduct border security
24 operations and ensure the safety of the public along the
25 Texas-Mexico border:

26 (1) recruit, employ, and train officers and other
27 staff; and

1 (2) contract for additional officers and staff to meet
2 an increased need for border security operations.

3 (b) The border force shall expand programs for training
4 officers to serve as members of a brush team.

5 Sec. 411.0288. REPORTS. At least once each calendar
6 quarter and at other times determined necessary by the governor or
7 the chief of the border force, the chief of the border force shall
8 submit a report to the governor containing information requested by
9 the governor concerning the border force's operations.

10 Sec. 411.0289. NO LIMITATION ON BORDER FORCE AUTHORITY BY
11 LOCAL GOVERNMENTS. A political subdivision, including a
12 municipality, county, or special purpose district, may not by any
13 means limit the jurisdiction or authority of the border force.

14 SECTION 1.03. Chapter 820, Government Code, is amended by
15 adding Subchapter A-1 to read as follows:

16 SUBCHAPTER A-1. CERTAIN MILITARY SERVICE CREDIT

17 Sec. 820.021. CERTAIN MILITARY SERVICE CREDIT WITHOUT
18 PURCHASE. (a) A cash balance group member hired by the Department
19 of Public Safety for the Texas Border Force under Subchapter B-2,
20 Chapter 411, who served active federal duty in the armed forces of
21 the United States and obtains a peace officer license issued under
22 Chapter 1701, Occupations Code, while employed with the border
23 force may establish military service credit not to exceed six
24 months in the retirement system for the purposes described by
25 Subsection (c) by submitting a request to the system in a form and
26 manner prescribed by the system.

27 (b) The retirement system shall grant the military service

1 credit of a member who submits a request as provided by Subsection
2 (a) after the system verifies that the member is a cash balance
3 group member and served the military service required by that
4 subsection.

5 (c) Military service credit established under this section
6 may be used only to determine whether the cash balance group member
7 is eligible to retire and receive a cash balance annuity under this
8 chapter. The service credit does not affect eligibility for any
9 other purpose, including for purposes of determining eligibility to
10 participate in the group benefits program established under Chapter
11 1551, Insurance Code.

12 SECTION 1.04. Subchapter C, Chapter 2155, Government Code,
13 is amended by adding Section 2155.151 to read as follows:

14 Sec. 2155.151. CERTAIN PURCHASES BY DEPARTMENT OF PUBLIC
15 SAFETY. (a) The Department of Public Safety is delegated all
16 purchasing functions relating to the purchase of technologies and
17 equipment for use in border security operations, including
18 technology and equipment described by Section 411.0285, to ensure
19 the department consistently adopts innovative technologies and
20 solutions for those operations.

21 (b) The Department of Public Safety shall acquire goods and
22 services under Subsection (a) by any procurement method that
23 provides the best value to the department. The Department of Public
24 Safety shall consider the best value standards listed in Section
25 2155.074.

26 (c) At the request of the Department of Public Safety, the
27 comptroller or the Department of Information Resources, as

1 appropriate, shall procure goods and services described by
2 Subsection (a) for the Department of Public Safety. The Department
3 of Public Safety may use the services of the comptroller or the
4 Department of Information Resources in procuring goods and services
5 described by Subsection (a).

6 SECTION 1.05. (a) In reviewing emerging technologies under
7 Section 411.0043(c), Government Code, as added by this article, the
8 Department of Public Safety shall hold a technology fair at which
9 vendors of emerging technology that may be used for conducting
10 border security operations demonstrate the capabilities of the
11 products.

12 (b) The event required by Subsection (a) of this section
13 must be held not later than September 1, 2024.

14 ARTICLE 2. IMPROPER ENTRY

15 SECTION 2.01. Chapter 38, Penal Code, is amended by adding
16 Section 38.20 to read as follows:

17 Sec. 38.20. IMPROPER ENTRY FROM FOREIGN NATION. (a) In
18 this section, "alien" has the meaning assigned by 8 U.S.C. Section
19 1101, as that provision existed on January 1, 2023.

20 (b) A person who is an alien commits an offense if the
21 person:

22 (1) enters or attempts to enter this state from a
23 foreign nation at any location other than a lawful point of entry;

24 (2) eludes examination or inspection by United States
25 immigration officers; or

26 (3) attempts to enter or obtains entry to this state
27 from a foreign nation by an intentionally false or misleading

1 representation or the intentional concealment of a material fact.

2 (c) An offense under this section is a Class A misdemeanor,
3 except that if it is shown on the trial of the offense that the
4 person has previously been finally convicted of:

5 (1) an offense under this section, the offense is a
6 state jail felony;

7 (2) a state jail felony described by Subdivision (1)
8 or any other felony not listed in Article 42A.054(a), Code of
9 Criminal Procedure, the offense is a felony of the second degree; or

10 (3) a felony listed in Article 42A.054(a), Code of
11 Criminal Procedure, the offense is a felony of the first degree.

12 (d) It is an affirmative defense to prosecution under this
13 section that:

14 (1) the actor has been granted a federal immigration
15 benefit entitling the actor to:

16 (A) lawful presence in the United States; or

17 (B) asylum under 8 U.S.C. Section 1158;

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

20 (3) the actor was approved for benefits under the
21 federal Deferred Action for Childhood Arrivals program between June
22 15, 2012, and July 16, 2021.

23 (e) For purposes of Subsection (d)(1), the following
24 federal programs do not confer federal immigration benefits
25 entitling the actor to lawful presence in the United States:

26 (1) the Deferred Action for Parents of Americans and
27 Lawful Permanent Residents; and

1 (2) any program not enacted by the United States
2 Congress that is a successor to or materially similar to the program
3 described by Subdivision (1) or Subsection (d)(3).

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

7 (g) A law enforcement officer of the Department of Public
8 Safety who arrests a person for an offense under this section shall,
9 to the extent feasible, detain the person in a facility established
10 under Operation Lone Star or a similar border security operation of
11 this state.

12 ARTICLE 3. MINIMUM SENTENCES FOR SMUGGLING OFFENSES

13 SECTION 3.01. Section 20.05(b), Penal Code, is amended to
14 read as follows:

15 (b) An offense under this section is a felony of the third
16 degree with a term of imprisonment of 10 years, except that the
17 offense is:

18 (1) a felony of the second degree with a minimum term
19 of imprisonment of 10 years if:

20 (A) the actor commits the offense in a manner
21 that creates a substantial likelihood that the smuggled individual
22 will suffer serious bodily injury or death;

23 (B) the smuggled individual is a child younger
24 than 18 years of age at the time of the offense;

25 (C) the offense was committed with the intent to
26 obtain a pecuniary benefit;

27 (D) during the commission of the offense the

1 actor, another party to the offense, or an individual assisted,
2 guided, or directed by the actor knowingly possessed a firearm; or

3 (E) the actor commits the offense under
4 Subsection (a)(1)(B); or

5 (2) a felony of the first degree with a minimum term of
6 imprisonment of 10 years if:

7 (A) it is shown on the trial of the offense that,
8 as a direct result of the commission of the offense, the smuggled
9 individual became a victim of sexual assault, as defined by Section
10 22.011, or aggravated sexual assault, as defined by Section 22.021;
11 or

12 (B) the smuggled individual suffered serious
13 bodily injury or death.

14 SECTION 3.02. Sections 20.06(e) and (f), Penal Code, are
15 amended to read as follows:

16 (e) Except as provided by Subsections (f) and (g), an
17 offense under this section is a felony of the second degree with a
18 minimum term of imprisonment of 10 years.

19 (f) An offense under this section is a felony of the first
20 degree with a minimum term of imprisonment of 10 years if:

21 (1) the conduct constituting an offense under Section
22 20.05 is conducted in a manner that creates a substantial
23 likelihood that the smuggled individual will suffer serious bodily
24 injury or death; or

25 (2) the smuggled individual is a child younger than 18
26 years of age at the time of the offense.

27 SECTION 3.03. The changes in law made by this article apply

1 only to an offense committed on or after the effective date of this
2 article. An offense committed before the effective date of this
3 article is governed by the law in effect on the date the offense was
4 committed, and the former law is continued in effect for that
5 purpose. For purposes of this section, an offense was committed
6 before the effective date of this article if any element of the
7 offense was committed before that date.

8 ARTICLE 4. FOREIGN TERRORIST ORGANIZATIONS

9 SECTION 4.01. The heading to Subchapter D, Chapter 125,
10 Civil Practice and Remedies Code, is amended to read as follows:

11 SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG OR FOREIGN
12 TERRORIST ORGANIZATION

13 SECTION 4.02. Sections 125.061(1) and (3), Civil Practice
14 and Remedies Code, are amended to read as follows:

15 (1) "Combination," ~~and~~ "criminal street gang," and
16 "foreign terrorist organization" have the meanings assigned by
17 Section 71.01, Penal Code.

18 (3) "Gang activity" means the following types of
19 conduct:

20 (A) organized criminal activity as described by
21 Section 71.02, Penal Code;

22 (B) terroristic threat as described by Section
23 22.07, Penal Code;

24 (C) coercing, inducing, or soliciting [~~or~~
25 ~~inducing gang~~] membership in a criminal street gang or foreign
26 terrorist organization as described by Section 71.022(a) or (a-1),
27 Penal Code;

1 (D) criminal trespass as described by Section
2 30.05, Penal Code;

3 (E) disorderly conduct as described by Section
4 42.01, Penal Code;

5 (F) criminal mischief as described by Section
6 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;

7 (G) a graffiti offense in violation of Section
8 28.08, Penal Code;

9 (H) a weapons offense in violation of Chapter 46,
10 Penal Code; or

11 (I) unlawful possession of a substance or other
12 item in violation of Chapter 481, Health and Safety Code.

13 SECTION 4.03. Section 125.062, Civil Practice and Remedies
14 Code, is amended to read as follows:

15 Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A
16 combination, ~~[or]~~ criminal street gang, or foreign terrorist
17 organization that continuously or regularly associates in gang
18 activities is a public nuisance.

19 SECTION 4.04. Section 125.063, Civil Practice and Remedies
20 Code, is amended to read as follows:

21 Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. The habitual
22 use of a place by a combination, ~~[or]~~ criminal street gang, or
23 foreign terrorist organization for engaging in gang activity is a
24 public nuisance.

25 SECTION 4.05. Section 125.064(b), Civil Practice and
26 Remedies Code, is amended to read as follows:

27 (b) Any person who habitually associates with others to

1 engage in gang activity as a member of a combination, ~~[or]~~ criminal
2 street gang, or foreign terrorist organization may be made a
3 defendant in the suit. Any person who owns or is responsible for
4 maintaining a place that is habitually used for engaging in gang
5 activity may be made a defendant in the suit.

6 SECTION 4.06. Section 125.065(a), Civil Practice and
7 Remedies Code, is amended to read as follows:

8 (a) If the court finds that a combination, ~~[or]~~ criminal
9 street gang, or foreign terrorist organization constitutes a public
10 nuisance, the court may enter an order:

11 (1) enjoining a defendant in the suit from engaging in
12 the gang activities of the combination, ~~[or]~~ criminal street gang,
13 or foreign terrorist organization; and

14 (2) imposing other reasonable requirements to prevent
15 the combination, ~~[or]~~ criminal street gang, or foreign terrorist
16 organization from engaging in future gang activities.

17 SECTION 4.07. Section 125.069, Civil Practice and Remedies
18 Code, is amended to read as follows:

19 Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought
20 under this subchapter, proof that gang activity by a member of a
21 combination, ~~[or]~~ a criminal street gang, or a foreign terrorist
22 organization is frequently committed at a place or proof that a
23 place is frequently used for engaging in gang activity by a member
24 of a combination, ~~[or]~~ a criminal street gang, or a foreign
25 terrorist organization is prima facie evidence that the proprietor
26 knowingly permitted the act, unless the act constitutes conspiring
27 to commit gang activity.

1 SECTION 4.08. Sections 125.070(b), (c), and (e), Civil
2 Practice and Remedies Code, are amended to read as follows:

3 (b) A criminal street gang or foreign terrorist
4 organization or a member of a criminal street gang or foreign
5 terrorist organization is liable to the state or a governmental
6 entity injured by the violation of a temporary or permanent
7 injunctive order under this subchapter.

8 (c) In an action brought against a member of a criminal
9 street gang or a member of a foreign terrorist organization, the
10 plaintiff must show that the member violated the temporary or
11 permanent injunctive order.

12 (e) The property of the criminal street gang or foreign
13 terrorist organization or a member of the criminal street gang or
14 foreign terrorist organization may be seized in execution on a
15 judgment under this section. Property may not be seized under this
16 subsection if the owner or interest holder of the property proves by
17 a preponderance of the evidence that the owner or interest holder
18 was not a member of the criminal street gang or foreign terrorist
19 organization and did not violate the temporary or permanent
20 injunctive order. The owner or interest holder of property that is
21 in the possession of a criminal street gang or foreign terrorist
22 organization or a member of the criminal street gang or foreign
23 terrorist organization and that is subject to execution under this
24 subsection must show that the property:

- 25 (1) was stolen from the owner or interest holder; or
26 (2) was used or intended to be used without the
27 effective consent of the owner or interest holder by the criminal

1 street gang or foreign terrorist organization or a member of the
2 criminal street gang or foreign terrorist organization.

3 SECTION 4.09. Article 67.001, Code of Criminal Procedure,
4 is amended by adding Subdivision (8-a) and amending Subdivision (9)
5 to read as follows:

6 (8-a) "Foreign terrorist organization" has the meaning
7 assigned by Section 71.01, Penal Code.

8 (9) "Intelligence database" means a collection or
9 compilation of data organized for search and retrieval to evaluate,
10 analyze, disseminate, or use intelligence information relating to a
11 combination, ~~or~~ criminal street gang, or foreign terrorist
12 organization for the purpose of investigating or prosecuting a
13 criminal offense.

14 SECTION 4.10. Articles 67.051(a) and (b), Code of Criminal
15 Procedure, are amended to read as follows:

16 (a) Subject to Subsection (b), a criminal justice agency or
17 juvenile justice agency shall compile criminal information into an
18 intelligence database for the purpose of investigating or
19 prosecuting the criminal activities of combinations, ~~or~~ criminal
20 street gangs, or foreign terrorist organizations.

21 (b) A law enforcement agency in a municipality with a
22 population of 50,000 or more or in a county with a population of
23 100,000 or more shall compile and maintain in a local or regional
24 intelligence database criminal information relating to a criminal
25 street gang or a foreign terrorist organization as provided by
26 Subsection (a). The agency must compile and maintain the
27 information in accordance with the criminal intelligence systems

1 operating policies established under 28 C.F.R. Section 23.1 et seq.
2 and the submission criteria established under Article 67.054(b).

3 SECTION 4.11. Article 67.054(b), Code of Criminal
4 Procedure, is amended to read as follows:

5 (b) Criminal information collected under this chapter
6 relating to a criminal street gang or foreign terrorist
7 organization must:

8 (1) be relevant to the identification of an
9 organization that is reasonably suspected of involvement in
10 criminal activity; and

11 (2) consist of:

12 (A) a judgment under any law that includes, as a
13 finding or as an element of a criminal offense, participation in a
14 criminal street gang or foreign terrorist organization;

15 (B) a self-admission by an individual of
16 membership in a criminal street gang or foreign terrorist
17 organization [~~membership~~] that is made during a judicial
18 proceeding; or

19 (C) except as provided by Subsection (c), any two
20 of the following:

21 (i) a self-admission by the individual of
22 membership in a criminal street gang or foreign terrorist
23 organization [~~membership~~] that is not made during a judicial
24 proceeding, including the use of the Internet or other electronic
25 format or medium to post photographs or other documentation
26 identifying the individual as a member of a criminal street gang or
27 foreign terrorist organization;

1 (ii) an identification of the individual as
2 a member of a criminal street gang or foreign terrorist
3 organization [~~member~~] by a reliable informant or other individual;

4 (iii) a corroborated identification of the
5 individual as a member of a criminal street gang or foreign
6 terrorist organization [~~member~~] by an informant or other individual
7 of unknown reliability;

8 (iv) evidence that the individual frequents
9 a documented area of a criminal street gang or foreign terrorist
10 organization and associates with known members of a criminal street
11 gang or foreign terrorist organization [~~members~~];

12 (v) evidence that the individual uses, in
13 more than an incidental manner, criminal street gang or foreign
14 terrorist organization dress, hand signals, tattoos, or symbols,
15 including expressions of letters, numbers, words, or marks,
16 regardless of how or the means by which the symbols are displayed,
17 that are associated with a criminal street gang or foreign
18 terrorist organization that operates in an area frequented by the
19 individual and described by Subparagraph (iv);

20 (vi) evidence that the individual has been
21 arrested or taken into custody with known members of a criminal
22 street gang or foreign terrorist organization [~~members~~] for an
23 offense or conduct consistent with [~~criminal street~~] gang activity
24 as defined by Section 125.061, Civil Practice and Remedies Code;

25 (vii) evidence that the individual has
26 visited a known member of a criminal street gang or foreign
27 terrorist organization [~~member~~], other than a family member of the

1 individual, while the [~~gang~~] member is confined in or committed to a
2 penal institution; or

3 (viii) evidence of the individual's use of
4 technology, including the Internet, to recruit new members of a
5 criminal street gang or foreign terrorist organization [~~members~~].

6 SECTION 4.12. Articles 67.102(a) and (d), Code of Criminal
7 Procedure, are amended to read as follows:

8 (a) Notwithstanding Chapter 58, Family Code, criminal
9 information relating to a child associated with a combination, ~~[or]~~
10 criminal street gang, or foreign terrorist organization may be
11 compiled and released under this chapter regardless of the age of
12 the child.

13 (d) The governing body of a county or municipality served by
14 a law enforcement agency described by Article 67.051(b) may adopt a
15 policy to notify the parent or guardian of a child of the agency's
16 observations relating to the child's association with a criminal
17 street gang or foreign terrorist organization.

18 SECTION 4.13. Article 67.251, Code of Criminal Procedure,
19 is amended to read as follows:

20 Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The
21 office of the attorney general shall establish an electronic gang
22 resource system to provide criminal justice agencies and juvenile
23 justice agencies with information about criminal street gangs and
24 foreign terrorist organizations in this state.

25 SECTION 4.14. Articles 67.252(a) and (b), Code of Criminal
26 Procedure, are amended to read as follows:

27 (a) The gang resource system established under Article

1 67.251 may include the following information with regard to any
2 gang or foreign terrorist organization:

- 3 (1) gang or organization name;
- 4 (2) gang or organization identifiers, such as colors
5 used, tattoos, and clothing preferences;
- 6 (3) criminal activities;
- 7 (4) migration trends;
- 8 (5) recruitment activities; and
- 9 (6) a local law enforcement contact.

10 (b) Information in the gang resource system shall be
11 accessible according to:

- 12 (1) municipality or county; and
- 13 (2) gang or organization name.

14 SECTION 4.15. Article 67.254(a), Code of Criminal
15 Procedure, is amended to read as follows:

16 (a) On request by the office of the attorney general, a
17 criminal justice agency or juvenile justice agency shall make a
18 reasonable attempt to provide gang and foreign terrorist
19 organization information to the office of the attorney general for
20 the purpose of maintaining an updated, comprehensive gang resource
21 system.

22 SECTION 4.16. Article 67.255, Code of Criminal Procedure,
23 is amended to read as follows:

24 Art. 67.255. USE OF INFORMATION. Information in the gang
25 resource system may be used in investigating [~~gang-related~~]
26 relating to a criminal street gang or foreign terrorist
27 organization. Information from the system may be included in an

1 affidavit or subpoena or used in connection with any other legal or
2 judicial proceeding only if the information is corroborated by
3 information not provided by or maintained in the system.

4 SECTION 4.17. Section 71.01, Penal Code, is amended by
5 adding Subsection (e) to read as follows:

6 (e) "Foreign terrorist organization" means three or more
7 persons operating as an organization at least partially outside the
8 United States who engage in criminal activity and threaten the
9 security of this state or its residents, including but not limited
10 to a drug cartel.

11 SECTION 4.18. Section 71.02(a), Penal Code, is amended to
12 read as follows:

13 (a) A person commits an offense if, with the intent to
14 establish, maintain, or participate in a combination or in the
15 profits of a combination or as a member of a criminal street gang or
16 foreign terrorist organization, the person commits or conspires to
17 commit one or more of the following:

18 (1) murder, capital murder, arson, aggravated
19 robbery, robbery, burglary, theft, aggravated kidnapping,
20 kidnapping, aggravated assault, aggravated sexual assault, sexual
21 assault, continuous sexual abuse of young child or disabled
22 individual, solicitation of a minor, forgery, deadly conduct,
23 assault punishable as a Class A misdemeanor, burglary of a motor
24 vehicle, or unauthorized use of a motor vehicle;

25 (2) any gambling offense punishable as a Class A
26 misdemeanor;

27 (3) promotion of prostitution, aggravated promotion

1 of prostitution, or compelling prostitution;

2 (4) unlawful manufacture, transportation, repair, or
3 sale of firearms or prohibited weapons;

4 (5) unlawful manufacture, delivery, dispensation, or
5 distribution of a controlled substance or dangerous drug, or
6 unlawful possession of a controlled substance or dangerous drug:
7 (A) through forgery, fraud, misrepresentation,
8 or deception; or
9 (B) with the intent to deliver the controlled
10 substance or dangerous drug;

11 (5-a) causing the unlawful delivery, dispensation, or
12 distribution of a controlled substance or dangerous drug in
13 violation of Subtitle B, Title 3, Occupations Code;

14 (6) any unlawful wholesale promotion or possession of
15 any obscene material or obscene device with the intent to wholesale
16 promote the same;

17 (7) any offense under Subchapter B, Chapter 43,
18 depicting or involving conduct by or directed toward a child
19 younger than 18 years of age;

20 (8) any felony offense under Chapter 32;

21 (9) any offense under Chapter 36;

22 (10) any offense under Chapter 34, 35, or 35A;

23 (11) any offense under Section 37.11(a);

24 (12) any offense under Chapter 20A;

25 (13) any offense under Section 37.10;

26 (14) any offense under Section 38.06, 38.07, 38.09, or
27 38.11;

- 1 (15) any offense under Section 42.10;
2 (16) any offense under Section 46.06(a)(1) or 46.14;
3 (17) any offense under Section 20.05, ~~[or]~~ 20.06, or
4 20.07;
5 (18) any offense under Section 16.02; or
6 (19) any offense classified as a felony under the Tax
7 Code.

8 SECTION 4.19. The heading to Section 71.022, Penal Code, is
9 amended to read as follows:

10 Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP
11 IN A CRIMINAL STREET GANG OR FOREIGN TERRORIST ORGANIZATION.

12 SECTION 4.20. Sections 71.022(a) and (a-1), Penal Code, are
13 amended to read as follows:

14 (a) A person commits an offense if the person knowingly
15 causes, enables, encourages, recruits, or solicits another person
16 to become a member of a criminal street gang or foreign terrorist
17 organization which, as a condition of initiation, admission,
18 membership, or continued membership, requires the commission of any
19 conduct which constitutes an offense punishable as a Class A
20 misdemeanor or a felony.

21 (a-1) A person commits an offense if, with intent to coerce,
22 induce, or solicit a child to actively participate in the
23 activities of a criminal street gang or foreign terrorist
24 organization, the person:

- 25 (1) threatens the child or a member of the child's
26 family with imminent bodily injury; or
27 (2) causes bodily injury to the child or a member of

1 the child's family.

2 SECTION 4.21. Section 71.023, Penal Code, is amended to
3 read as follows:

4 Sec. 71.023. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS
5 OR FOREIGN TERRORIST ORGANIZATIONS. (a) A person commits an
6 offense if the person, as part of the identifiable leadership of a
7 criminal street gang or foreign terrorist organization, knowingly
8 finances, directs, or supervises the commission of, or a conspiracy
9 to commit, one or more of the following offenses by members of a
10 criminal street gang or foreign terrorist organization:

11 (1) a felony offense that is listed in Article
12 42A.054(a), Code of Criminal Procedure;

13 (2) a felony offense for which it is shown that a
14 deadly weapon, as defined by Section 1.07, was used or exhibited
15 during the commission of the offense or during immediate flight
16 from the commission of the offense; or

17 (3) an offense that is punishable under Section
18 481.112(e) or (f), 481.1121(b)(4), 481.1123(d), (e), or (f),
19 481.115(f), or 481.120(b)(6), Health and Safety Code.

20 (b) An offense under this section is a felony of the first
21 degree punishable by imprisonment in the Texas Department of
22 Criminal Justice for life or for any term of not more than 99 years
23 or less than 25 years.

24 SECTION 4.22. Chapter 125, Civil Practice and Remedies
25 Code, as amended by this article, applies only to an action
26 commenced on or after the effective date of this article. An action
27 commenced before the effective date of this article is governed by

1 the law as it existed immediately before the effective date of this
2 article, and that law is continued in effect for that purpose.

3 SECTION 4.23. Chapter 71, Penal Code, as amended by this
4 article, applies only to an offense committed on or after the
5 effective date of this article. An offense committed before the
6 effective date of this article is governed by the law in effect on
7 the date the offense was committed, and the former law is continued
8 in effect for that purpose. For purposes of this section, an offense
9 was committed before the effective date of this article if any
10 element of the offense occurred before that date.

11 ARTICLE 5. LANDOWNER COMPENSATION FOR PROPERTY DAMAGE CAUSED BY
12 CERTAIN CRIMINAL ACTIVITIES

13 SECTION 5.01. Title 1, Code of Criminal Procedure, is
14 amended by adding Chapter 56C to read as follows:

15 CHAPTER 56C. LANDOWNER COMPENSATION FOR PROPERTY DAMAGE CAUSED BY
16 CERTAIN CRIMINAL ACTIVITIES

17 Art. 56C.001. DEFINITIONS. In this chapter:

18 (1) "Agricultural land" includes any land the use of
19 which qualifies the land for appraisal based on agricultural use as
20 defined under Subchapter D, Chapter 23, Tax Code.

21 (2) "Border crime" means conduct:

22 (A) constituting an offense under:

23 (i) Subchapter D, Chapter 481, Health and
24 Safety Code;

25 (ii) Section 20.05 or 38.04, Penal Code; or

26 (iii) Chapter 20A, Penal Code; and

27 (B) involving transnational criminal activity.

1 (3) "Trespasser" has the meaning assigned by Section
2 75.007, Civil Practice and Remedies Code.

3 Art. 56C.002. ADMINISTRATION; RULES. (a) The attorney
4 general shall adopt rules to administer this chapter.

5 (b) Subchapters A and B, Chapter 2001, Government Code,
6 except Sections 2001.004(3) and 2001.005, apply to the attorney
7 general.

8 (c) The attorney general may delegate to a person in the
9 attorney general's office a power or duty given to the attorney
10 general under this chapter.

11 Art. 56C.003. LANDOWNER COMPENSATION PROGRAM. (a) From
12 money appropriated for the purpose, the attorney general shall
13 establish and administer a program to compensate landowners who
14 suffer real property damage on agricultural land caused by:

15 (1) a trespasser as a result of an offense under
16 Chapter 28, Penal Code, that was committed in the course of or in
17 furtherance of a border crime; or

18 (2) a law enforcement response to a trespasser who was
19 engaged in a border crime.

20 (b) The attorney general shall establish:

21 (1) eligibility criteria for compensation under this
22 article, including requirements for providing proof of eligibility
23 for compensation;

24 (2) application procedures;

25 (3) criteria for evaluating applications and awarding
26 compensation;

27 (4) guidelines related to compensation amounts,

1 provided that the maximum amount awarded per incident causing
2 damage may not exceed \$75,000; and

3 (5) procedures for monitoring the use of compensation
4 awarded under this article and ensuring compliance with any
5 conditions of the award.

6 (c) The attorney general may not award compensation under
7 this article for real property damage caused by a trespasser
8 described by Subsection (a)(1) unless the damage is documented in a
9 written report by a law enforcement agency as having occurred in
10 connection with a border crime.

11 (d) In awarding compensation under this article for real
12 property damage caused by a trespasser described by Subsection
13 (a)(1), the attorney general may not consider the outcome of any
14 criminal prosecution arising out of the offense under Chapter 28,
15 Penal Code, as a result of which the applicant suffered property
16 damage or the applicable offense listed in Article 56C.001(2)(A).

17 Art. 56C.004. HEARINGS AND PREHEARING CONFERENCES. (a) The
18 attorney general shall determine whether a hearing on an
19 application for compensation under this chapter is necessary.

20 (b) On determining that a hearing is not necessary, the
21 attorney general may approve the application.

22 (c) On determining that a hearing is necessary or on request
23 for a hearing by the applicant, the attorney general shall consider
24 the application at a hearing at a time and place of the attorney
25 general's choosing. The attorney general shall notify all
26 interested persons not later than the 10th day before the date of
27 the hearing.

1 (d) At the hearing the attorney general shall:

2 (1) review the application for compensation; and

3 (2) receive other evidence that the attorney general
4 finds necessary or desirable to evaluate the application properly.

5 (e) The attorney general may appoint hearing officers to
6 conduct hearings or prehearing conferences under this chapter.

7 (f) A hearing or prehearing conference is open to the public
8 unless the hearing officer or attorney general determines in a
9 particular case that all or part of the hearing or conference should
10 be held in private because a private hearing or conference is in the
11 interest of the applicant.

12 (g) Subchapters C through H, Chapter 2001, Government Code,
13 do not apply to the attorney general or the attorney general's
14 orders and decisions.

15 Art. 56C.005. ANNUAL REPORT. Not later than the 100th day
16 after the end of each state fiscal year, the attorney general shall
17 submit to the governor and the legislature a report on the attorney
18 general's activities under this chapter during the preceding fiscal
19 year that includes the following information, disaggregated by each
20 offense listed in Article 56C.001(2)(A):

21 (1) the number of applications made;

22 (2) the number of applicants receiving compensation;

23 and

24 (3) the amount of compensation awarded.

25 Art. 56C.006. PAYER OF LAST RESORT. (a) The program
26 established under Article 56C.003 is a payer of last resort for real
27 property damage described by that article.

1 (b) The attorney general may not award compensation to an
2 applicant under Article 56C.003 if the attorney general determines
3 that the applicant:

4 (1) is eligible for reimbursement from another source,
5 including under an insurance contract or a state, local, or federal
6 program; and

7 (2) failed to seek reimbursement from the source
8 described by Subdivision (1).

9 Art. 56C.007. EXPIRATION OF CHAPTER. This chapter expires
10 on the second anniversary of the date that all money appropriated
11 for the program established under this chapter has been expended.

12 ARTICLE 6. INTERAGENCY WORK GROUP ON BORDER ISSUES

13 SECTION 6.01. Sections 772.011(a) and (b), Government Code,
14 are amended to read as follows:

15 (a) An interagency work group is created to:

16 (1) develop or update a process to allow agencies to
17 work together on issues that face border communities;

18 (2) discuss and coordinate programs and services
19 offered to border communities and residents of border communities;

20 [~~and~~]

21 (3) develop regulatory and legislative
22 recommendations to eliminate duplication and combine program
23 services;

24 (4) identify and anticipate challenges and threats to
25 agencies' operations along the Texas-Mexico border;

26 (5) develop solutions to overcome the challenges and
27 threats described by Subdivision (4); and

1 (6) identify strategic opportunities agencies may use
2 to enhance the capabilities and effectiveness of their roles in
3 this state's operations along the Texas-Mexico border.

4 (b) The work group is composed of:

5 (1) the chair of the standing substantive committee of
6 the senate with primary jurisdiction over border security, or the
7 chair's designee;

8 (2) the chair of the standing substantive committee of
9 the house of representatives with primary jurisdiction over border
10 security, or the chair's designee; and

11 (3) the heads of the following agencies or their
12 designees:

13 (A) [~~1~~] the Texas Department of Rural Affairs;

14 (B) [~~2~~] the Texas Department of Housing and
15 Community Affairs;

16 (C) [~~3~~] the Texas Water Development Board;

17 (D) [~~4~~] the Texas Department of
18 Transportation;

19 (E) [~~5~~] the Texas Commission on Environmental
20 Quality;

21 (F) [~~6~~] the Texas Workforce Commission;

22 (G) [~~7~~] the Department of State Health
23 Services;

24 (H) [~~8~~] the Health and Human Services
25 Commission;

26 (I) [~~9~~] the General Land Office;

27 (J) [~~10~~] the Texas Economic Development and

1 Tourism Office;

2 (K) [~~(11)~~] the Office of State-Federal
3 Relations;

4 (L) [~~(12)~~] the Texas Higher Education
5 Coordinating Board;

6 (M) [~~(13)~~] the attorney general's office;

7 (N) [~~(14)~~] the secretary of state's office;

8 (O) [~~(15)~~] the Department of Public Safety;

9 [and]

10 (P) [~~(16)~~] the Railroad Commission of Texas;

11 (Q) the Texas Division of Emergency Management;

12 (R) the Texas Alcoholic Beverage Commission; and

13 (S) the Texas Military Department.

14 ARTICLE 7. FINANCIAL ASSISTANCE FOR INFRASTRUCTURE, FACILITIES,
15 EQUIPMENT, AND SERVICES IN THE BORDER REGION

16 SECTION 7.01. Chapter 421, Government Code, is amended by
17 adding Subchapter G to read as follows:

18 SUBCHAPTER G. USE OF FUNDS FOR BORDER PROTECTION AND PUBLIC SAFETY

19 Sec. 421.111. DEFINITIONS. In this subchapter:

20 (1) "Border region" has the meaning assigned by
21 Section 772.0071.

22 (2) "Local government" means a municipality or county.

23 (3) "Office" means the trustee programs within the
24 office of the governor.

25 Sec. 421.112. USE OF CERTAIN FUNDS. From money
26 appropriated for that purpose, the office, as authorized by Chapter
27 418, Government Code, including Subchapter D of that chapter, shall

1 make funds available to state agencies and local governments for
2 the following purposes:

3 (1) the construction and maintenance of facilities
4 related to prosecuting and adjudicating offenses committed in the
5 border region, including court facilities, processing facilities,
6 detention facilities, criminal justice centers, and other similar
7 facilities;

8 (2) the construction of improvements to an area in the
9 immediate vicinity of a port of entry to enhance vehicle inspection
10 capabilities and assist in the investigation, interdiction, and
11 prosecution of persons smuggling individuals or contraband across
12 the Texas-Mexico border; and

13 (3) the construction or improvement of roadways and
14 similar transportation facilities in the border region that provide
15 for detailed monitoring of commercial motor vehicles traveling
16 along the roadways and facilities.

17 ARTICLE 8. BORDER PROTECTION AGREEMENTS

18 SECTION 8.01. Title 7, Government Code, is amended by
19 adding Chapter 794 to read as follows:

20 CHAPTER 794. BORDER PROTECTION AGREEMENTS WITH UNITED MEXICAN
21 STATES

22 Sec. 794.001. AUTHORITY FOR AGREEMENTS. On behalf of this
23 state, the governor shall coordinate, develop, and execute
24 agreements with the United Mexican States and the states of the
25 United Mexican States regarding the authority of this state to
26 protect and defend its citizens.

1 ARTICLE 9. SEVERABILITY; EFFECTIVE DATE

2 SECTION 9.01. It is the intent of the legislature that every
3 provision, section, subsection, sentence, clause, phrase, or word
4 in this Act, and every application of the provisions in this Act to
5 every person, group of persons, or circumstances, is severable from
6 each other. If any application of any provision in this Act to any
7 person, group of persons, or circumstances is found by a court to be
8 invalid for any reason, the remaining applications of that
9 provision to all other persons and circumstances shall be severed
10 and may not be affected.

11 SECTION 9.02. This Act takes effect September 1, 2023.

ADOPTED

MAY 23 2023

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

[Signature]

1 Amend C.S.H.B. No. 7 (senate committee report) in SECTION
2 1.02 of the bill, in added Section 411.0285, Government Code (page
3 2, between lines 44 and 45), by inserting the following:

4 (d) Funds used to purchase technology and equipment
5 described by Subsection (a) are considered funds expended for
6 border security for purposes of reporting requirements in the
7 General Appropriations Act, and the Legislative Budget Board may
8 prescribe the form and manner of reporting the relevant budgeted
9 and expended amounts and performance indicator results.

ADOPTED

MAY 23 2023

Lacey Spaw
Secretary of the Senate

BY:

Burdwell

FLOOR AMENDMENT NO. 2

1 Amend C.S.H.B. No. 7 (senate committee report) in SECTION
2 1.02 of the bill, in added Section 411.0283(3), Government Code
3 (page 1, line 60), by striking "conducting border security
4 operations" and substituting "in border security operations led by
5 the border force".

ADOPTED

MAY 23 2023

Lately Saw
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *Burdwell*

1 Amend C.S.H.B. No. 7 (senate committee report) as follows:

2 (1) In SECTION 1.02 of the bill, in the heading to added
3 Section 411.0286, Government Code (page 2, line 45), after
4 "PATROL", add "OR MILITARY".

5 (2) In SECTION 1.02 of the bill, in added Section 411.0286,
6 Government Code (page 2, line 49), between "Protection" and "for",
7 insert "or a member of the armed forces of the United States".

8 (3) Strike SECTION 1.03 of the bill (page 3, line 4, through
9 page 3, line 28) and renumber the SECTIONS of ARTICLE 1 of the bill
10 accordingly.

ADOPTED

✓✓
MAY 23 2023

Ratney Law
Secretary of the Senate

FLOOR AMENDMENT NO. 4

BY: Phil King

1 Amend C.S.H.B. No. 7 (senate committee report) as follows:

2 (1) In SECTION 1.02 of the bill, in added Section 411.0283,
3 Government Code (page 1, line 53), between "OPERATIONS." And "The
4 border force", insert "(a)".

5 (2) In SECTION 1.02 of the bill, immediately following added
6 Section 411.0283, Government Code (page 2, between lines 12 and
7 13), insert the following:

8 Only commissioned officers of the border force may carry out
9 the duties assigned to a commissioned peace officer. An
10 employee of the border force who is not a commissioned peace
11 officer may:

12 (1) Act in support of a commissioned peace officer; and

13 (2) Engage in support and infrastructure operations of the
14 border force.

ADOPTED

MAY 23 2023

Lacey Law
Secretary of the Senate

BY: *Brian Sindwell*

FLOOR AMENDMENT NO. 5

1 Amend C.S.H.B 7 (senate committee report) by:

2 (1) Striking ARTICLE 4 of the bill, foreign terrorist
3 organizations (page 5, line 22 through page 10, line
4 30);

5 (2) By striking ARTICLE 5 of the bill, landowner
6 compensation for property damage caused by certain
7 criminal activities (page 10, line 31 through page 12,
8 line 1);

9 (3) Renumber the ARTICLES of the bill and the SECTIONS of
10 those ARTICLES as appropriate.

ADOPTED

MAY 23 2023

Latey Law
Secretary of the Senate

FLOOR AMENDMENT NO. 6

BY: Joan Huffman

1 Amend C.S.H.B. No. 7 (senate committee report) by adding the
2 following appropriately numbered ARTICLE to the bill and
3 renumbering the ARTICLES and SECTIONS of the bill accordingly:

4 ARTICLE . BORDER REGION COURT PROGRAM

5 SECTION .01. Chapter 72, Government Code, is amended by
6 adding Subchapter H to read as follows:

7 SUBCHAPTER H. BORDER PROTECTION COURT GRANT PROGRAM

8 Sec. 72.201. DEFINITIONS. In this subchapter:

9 (1) "Border-related offense" means an offense:

10 (A) associated with or involving:

11 (i) a person unlawfully entering or
12 attempting to enter this state by crossing the Texas-Mexico border
13 at any place other than at a port of entry;

14 (ii) the smuggling of individuals or
15 contraband across the Texas-Mexico border; or

16 (iii) an operative of a transnational cartel;

17 (B) similar to an offense described by Paragraph
18 (A) that the office by rule defines as a border-related offense
19 for purposes of this subchapter; or

20 (C) for which the office has determined
21 prosecutions have significantly increased as a result of Operation
22 Lone Star.

23 (2) "Border region" has the meaning assigned by Section
24 772.0071.

25 Sec. 72.202. GRANT PROGRAM. (a) From money appropriated

1 for that purpose, the office shall establish and administer a grant
2 program to support the operation of courts in the border region
3 with the adjudication of border-related offenses.

4 (b) In addition to other funds appropriated by the
5 legislature and for purposes of administering and funding the grant
6 program, the office may:

7 (1) seek and apply for any available federal funds; and

8 (2) solicit and accept gifts, grants, and donations
9 from any other source, public or private, as necessary to ensure
10 resources are available to achieve the purpose described by
11 Subsection (a).

12 (c) The grants awarded under this subchapter may be used for
13 the reimbursement of costs associated with the operation of a
14 court, including the:

15 (1) salary of a visiting judge appointed under Chapter
16 74;

17 (2) salary and benefits of an associate judge, court
18 coordinator, court administrator, court reporter, and court
19 interpreter;

20 (3) salary and benefits of district and county clerk
21 staff;

22 (4) travel costs and other expenses incurred by court
23 personnel and judges in the performance of their duties;

24 (5) cost of equipment necessary for personnel dedicated
25 to the processing and adjudicating of border-related offenses;

26 (6) fees and related expenses for the appointment of
27 counsel to represent an indigent defendant under Chapter 26, Code

1 of Criminal Procedure, or the costs to operate a public defender's
2 office or managed assigned counsel program under that chapter, as
3 those fees and expenses relate to the adjudication of border-
4 related offenses; or

5 (7) salary, benefits, and related expenses of
6 prosecution personnel.

7 Sec. 72.203. RULES. (a) The office shall adopt rules for
8 the administration and operation of the grant program established
9 under this subchapter.

10 (b) In adopting the rules, the office shall:

11 (1) conduct a study of the data collected for this
12 purpose or otherwise available on crime, arrests, detentions, and
13 convictions to identify offenses for which prosecutions have
14 increased as a result of Operation Lone Star; and

15 (2) solicit from governmental officials, community
16 leaders, and other interested persons in the border region
17 information necessary to identify the courts of the region needing
18 financial assistance.

19 (c) The rules must include:

20 (1) administrative provisions for grants awarded under
21 this subchapter, including:

22 (A) eligibility criteria for grant applicants,
23 including criteria to limit eligibility to those applicants
24 experiencing an increase in caseloads;

25 (B) grant application procedures;

26 (C) guidelines relating to grant amounts;

27 (D) procedures for evaluating grant applications;

1 and

2 (E) procedures for monitoring the use of grants;

3 (2) methods for tracking the effectiveness of grants
4 and the efficiency of the applicants receiving grants; and

5 (3) procedures for reporting caseload data at least
6 annually, including caseload data necessary to update the study
7 described by Section 72.2055.

8 Sec. 72.204. GRANT AMOUNTS. The amount of a grant awarded
9 under this subchapter may not exceed the amount set by the General
10 Appropriations Act.

11 Sec. 72.205. REPORTING REQUIREMENTS FOR GRANT RECIPIENTS.
12 The recipient of a grant awarded under this subchapter shall submit
13 to the office an annual report on the grant money spent during the
14 year covered by the report and the purposes for which that money
15 was spent.

16 Sec. 72.2055. ANNUAL REPORT BY OFFICE. Annually, the office
17 shall update the study conducted under Section 72.203(b)(1) using
18 caseload data required to be reported under the rules adopted under
19 Section 72.203(c).

20 Sec. 72.206. ADMINISTRATIVE COSTS. Unless otherwise
21 provided by the appropriation, the office may use a reasonable
22 amount, not to exceed five percent, of any general revenue
23 appropriated for purposes of this subchapter to pay the costs of
24 administering the grant program.

25 SECTION _.02. As soon as practicable after the effective
26 date of this article, the Office of Court Administration of the
27 Texas Judicial System shall with respect to Subchapter H, Chapter

1 72, Government Code, as added by this article:

2 (1) adopt rules as necessary to implement the
3 subchapter; and

4 (2) establish the grant program required by the
5 subchapter.

ADOPTED

MAY 23 2023

FLOOR AMENDMENT NO. _____

Latoya Spaw
Secretary of the Senate

BY: _____

Burdwell

1 Amend C.S.H.B. No. 7 (senate committee report) as follows:

2 (1) In SECTION 7.01 of the bill, in added Section
3 421.112(2), Government Code (page 13, line 14), following the
4 underlined semicolon, strike "and".

5 (2) In SECTION 7.01 of the bill, in added Section 421.112,
6 Government Code, strike added Subdivision (3) (page 13, lines 15
7 through 18) and substitute the following:

8 (3) the payment of staff salaries and benefits and the
9 payment of operational expenses related to providing law
10 enforcement services, emergency services, detention services, and
11 court administration services;

12 (4) the construction and maintenance of temporary
13 border security infrastructure, including temporary walls,
14 barriers, fences, wires, trenches, surveillance technology, or
15 other improvements, designed or adapted to surveil or impede the
16 movement of persons or objects across the Texas-Mexico border at
17 locations other than ports of entry; and

18 (5) any other activity that the office determines
19 necessary to address offenses that are committed in the border
20 region or are related to transnational criminal activity.

21 (3) In SECTION 7.01 of the bill, following added Section
22 421.112, Government Code (page 13, between lines 18 and 19), insert
23 the following:

24 Sec. 421.113. ADMINISTRATIVE COSTS. Unless otherwise
25 provided by the appropriation, the office may use a reasonable
26 amount, not to exceed five percent, of any funds appropriated for
27 purposes of this subchapter to pay the costs of administering this
28 subchapter.

ADOPTED

MAY 23 2023

Lacey Law
Secretary of the Senate

FLOOR AMENDMENT NO. 8

BY: *Bridwell*

1 Amend C.S.H.B. No. 7 (senate committee report) in SECTION
2 8.01 of the bill, in added Section 794.001, Government Code (page
3 13, line 25), by striking "shall" and substituting "may".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force, and to compensate persons affected by those threats; increasing criminal penalties; creating criminal offenses.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Passed 2nd House : a negative impact of (\$82,703,104) through the biennium ending August 31, 2025 for certain programs administered by the Office of Court Administration. Additional costs, while assumed to be significant, cannot be determined due to the size and scope of the Texas Border Force being unknown.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$62,682,832)
2025	(\$20,020,272)
2026	(\$62,031,497)
2027	(\$20,103,997)
2028	(\$62,077,874)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from General Revenue Fund 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$62,682,832)	18.8
2025	(\$20,020,272)	18.8
2026	(\$62,031,497)	18.8
2027	(\$20,103,997)	18.8
2028	(\$62,077,874)	18.8

Fiscal Analysis

The bill would require the Department of Public Safety (DPS) to periodically review technologies that may be deployed for border security operations to ensure the agency is utilizing innovative solutions for those operations.

The bill would create the Texas Border Force (TBF) as a division of the Texas Rangers to conduct border security operations, including law enforcement operations, intelligence gathering, surveillance, tactical operations, and training.

The bill would only allow commissioned officers of the TBF to carry out the duties assigned to a commissioned peace officer. Noncommissioned staff may support commissioned peace officers and infrastructure operations.

The bill would allow DPS to enter into a written agreement with the Texas Military Department (TMD) to assign service members of the Texas military forces to the TBF and reimburse TMD for hiring, training, salary and benefits costs incurred with as a result.

The bill would require DPS to purchase and deploy technology and equipment to detect and suppress criminal activity along the Texas-Mexico border including razor wire, buoy barriers, and surveillance and detection technology at each port to inspect passenger and commercial vehicles for smuggling of individuals or controlled substances. DPS would be granted all purchasing and procurement capabilities related to technologies and equipment for border security operations.

The bill would allow DPS to offer credit for up to four years of experience as a Border Patrol Agent of the United States Customs and Border Protection or a member of the armed forces of the United States for the purpose of calculating an officer's salary under Schedule C.

The bill would allow DPS to provide a cash balance group member hired for the TBF who served active federal duty in the armed forces of the United States and obtains a peace officer license issued under Chapter 1701, Occupations Code, the option to establish verified military service credit not to exceed six months in the retirement system.

The bill would restrict a municipality, county, or special purpose district from limiting the jurisdiction or authority of the TBF.

The bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and increased to a second- or first-degree felony in the case of certain previous felony convictions. The bill would require a law enforcement officer of DPS who arrests a person for such an offense, to the extent feasible, to detain the person in a facility established under Operation Lone Star (OLS) or a similar border security operation of this state. The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would establish a 10-year term of imprisonment for the third-degree felony offense of smuggling of persons and would increase the minimum term of imprisonment to 10 years for the second- and first-degree felony offenses of smuggling of persons and continuous smuggling of persons. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The impact on state correctional populations and the demand for state correctional resources could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

The bill would establish the Border Protection Court Program to support the operation of courts in the border region with the adjudication of border-related offenses. OCA would establish and administer a grant program to support the operation of the program.

The bill would require OCA to conduct a study to identify offenses for which prosecutions have increased because of OLS.

The bill would expand the duties of the Interagency Work Group on Border Issues to identify and develop solutions to challenges and threats to state agencies along the border and adds the heads of the Texas Division of Emergency Management, the Texas Alcoholic Beverage Commission, and the TMD as designees.

The bill would allow funds appropriated to the Trusteed Programs within the Office of the Governor (OOG Trusteed Programs) to be made available to state agencies and local governments for the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region; construction and improvement in the vicinity of a port of entry to enhance vehicle inspection; construction and maintenance of temporary security infrastructure; and other activities determined to be necessary to address offenses committed related to transnational criminal activity.

The bill would give the Governor authority to execute agreements with the United Mexican States and the states of the United Mexican States for the protection and defense of the citizens of Texas.

The bill would take effect September 1, 2023.

Methodology

According to DPS, the costs associated with implementing the provisions of the bill, while assumed to be significant, cannot be determined at this time due to the size and scope of the TBF being unknown. For context, if it was determined DPS would contract 300 Texas State Guardsmen, the agency would require \$27,960,750 in General Revenue in fiscal year 2024 and \$23,176,000 in fiscal year 2025. This estimate assumes \$75,000 per fiscal year for each Texas State Guardsmen for salary and benefits, \$4,784,625 in fiscal year 2024 for 75 vehicles equipped with radios, and \$676,125 each fiscal year for fuel and maintenance.

According to OCA, the Border Protection Court Program would cost \$62,682,832 in fiscal year 2024 and \$20,020,272 in fiscal year 2025, including one-time costs associated with establishing the program, 18.8 FTE positions to administer the program, and \$58,913,640 in estimated grant costs in fiscal year 2024 and \$17,250,372 in fiscal year 2025.

The grant costs represent funding estimates for seven district and or county courts that presently receive grant funding from the OOG Trusteed Programs, and eleven new courts whose respective law enforcement agencies have either already received grant funding or the court is experiencing an uptick in OLS driven case volume. Also included in the grant total is an estimate for indigent defense representation and funding for additional attorney staff for the Fourth Court of Appeals to process OLS appeals.

According to OCA, the costs associated with the salary, benefits, and related expenses for prosecution personnel, while assumed to be significant, cannot be determined due to the number of personnel that would be funded by grants being unknown.

According to the Texas Commission on Law Enforcement, it is assumed that any agency costs associated with the bill could be absorbed using existing resources.

Technology

In addition to the amounts above, DPS estimates that technology costs would total \$52,000,000 in fiscal year 2024 and \$12,000,000 in fiscal year 2025 for advanced scanning stations at five ports of entry (\$40,000,000 in fiscal year 2024 only) and intelligence software (\$12,000,000 per fiscal year).

Local Government Impact

According to OCA, local courts could see a positive fiscal impact as the border court grants could provide eligible jurisdictions with expanded capacity to handle increased OLS-related filings.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 401 Military Department, 405 Department of Public Safety

LBB Staff: JMc, DDel, KFB, DA, LBO

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force, and to compensate persons affected by those threats; increasing criminal penalties; creating criminal offenses.),
Committee Report 2nd House, Substituted

The fiscal implications of the bill, while assumed to be significant, cannot be determined at this time due to uncertainty about the level of funding for grants and programs administered by the Office of the Attorney General, as well as the size and scope of the Texas Border Force being unknown.

The bill would require the Department of Public Safety (DPS) to periodically review technologies that may be deployed for border security operations to ensure the agency is utilizing innovative solutions for those operations.

The bill would create the Texas Border Force (TBF) as a division of the Texas Rangers to conduct border security operations, including law enforcement operations, intelligence gathering, surveillance, tactical operations, and training.

The bill would allow DPS to enter into a written agreement with the Texas Military Department (TMD) to assign service members of the Texas military forces to the TBF and reimburse TMD for hiring, training, salary and benefits costs incurred as a result.

The bill would require DPS to purchase and deploy technology and equipment to detect and suppress criminal activity along the Texas-Mexico border including razor wire, buoy barriers, and surveillance and detection technology at each port to inspect passenger and commercial vehicles for smuggling of individuals or controlled substances. DPS would be granted all purchasing and procurement capabilities related to the purchase of technologies and equipment for border security operations.

According to DPS, technology costs would total \$52,000,000 in fiscal year 2024 and \$12,000,000 in fiscal year 2025 for five advanced scanning stations at ports of entry (\$40,000,000 in fiscal year 2024 only) and intelligence software (\$12,000,000 per fiscal year).

The bill would allow DPS to offer credit for up to four years of experience as a Border Patrol Agent of the US Customs and Border Protection for the purpose of calculating an officer's salary under Schedule C.

The bill would allow DPS to provide a cash balance group member hired for the TBF who served active federal duty in the armed forces of the United States and obtains a peace officer license issued under Chapter 1701, Occupations Code, the option to establish verified military service credit not to exceed six months in the retirement system.

According to DPS, the costs associated with implementing the provisions of the bill, while assumed to be significant, cannot be determined at this time due to the size and scope of the TBF being unknown. For context, if it was determined DPS would contract 300 Texas State Guardsmen, the agency would require \$27,960,750 in General Revenue in fiscal year 2024 and \$23,176,000 in fiscal year 2025. This estimate assumes \$75,000 per

fiscal year for each Texas State Guardsmen for salary and benefits, \$4,784,625 in fiscal year 2024 for 75 vehicles equipped with radios, and \$676,125 each fiscal year for fuel and maintenance.

The bill would restrict a municipality, county, or special purpose district from limiting the jurisdiction or authority of the Border Force.

The bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and increased to a second or first degree felony in the case of certain previous felony convictions. The bill would require a DPS law enforcement officer who arrests a person for such an offense, to the extent feasible, to detain the person in a facility established under Operation Lone Star or a similar border security operation of this state. The Office of Court Administration (OCA) and the Comptroller of Public Accounts both indicate that the fiscal impact cannot be determined. The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would establish a 10-year term of imprisonment for the third-degree felony offense of smuggling of persons and would increase the minimum term of imprisonment to 10 years for the second- and first-degree felony offenses of smuggling of persons and continuous smuggling of persons. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The impact on state correctional populations and the demand for state correctional resources could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

The bill would define and specify foreign terrorist organizations that engage in certain activities as a public nuisance and make them and their members susceptible to the same court actions and lawsuits to which criminal street gangs are susceptible under current law. The bill would make real property owned by a member or participant of a foreign terrorist organization subject to asset forfeiture. The bill would add foreign terrorist organizations to the Office of the Attorney General's (OAG) gang resource system to provide criminal justice agencies and juvenile justice agencies with information. OAG indicates that there will be no significant fiscal impact to the agency.

The bill would establish a Border Property Damage Compensation Program to be administered by OAG. The program would allow OAG to compensate a person for actual damages, not to exceed \$75,000 per incident, to their agricultural land caused by a person who entered or attempted to enter the state by crossing the border with Mexico at any time or place other than a port of entry.

According to OAG, it would require 11.0 FTEs to establish and administer the Border Property Damage Compensation program. This analysis assumes a cost of \$2,050,480 in fiscal year 2024 and \$1,190,215 in fiscal year 2025 for salaries, onetime technology costs to develop a reporting system, and other operating expenses.

For context, OAG estimates that it may receive 500 applications or more in fiscal year 2024 for property damage compensation. If each applicant is awarded an average of \$50,000, the total cost for the program could be \$25,000,000 in fiscal year 2024 alone. However, with no verifiable statewide data to determine the number of applications or the average amount paid, the fiscal impact cannot be determined.

The bill would expand the duties of the Interagency Work Group on Border Issues to identify and develop solutions to challenges and threats to state agencies along the border and adds the head of the Texas Division of Emergency Management, the Texas Alcoholic Beverage Commission, and the Texas Military Department as designees.

The bill would allow funds appropriated to the Trusteed Programs within the Office of the Governor to be made available to state agencies and local governments for the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region; construction and improvement in the vicinity of a port of entry to enhance vehicle inspection; and the construction or improvement of roadways and transportation facilities for monitoring commercial vehicles.

The bill would give the Governor authority to execute agreements with the United Mexican States and the states of the United Mexican States for the protection and defense of the citizens of Texas.

The bill would take effect September 1, 2023.

Local Government Impact

According to OCA, the provisions of the bill may result in a significant increase in the county courts' workload as the impact to the local court system will be driven by law enforcement and the TBF's capacity to apprehend, arrest, and process the number of individuals the bill exposes to arrest or increased penalty.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusted Programs Within the Office of the Governor, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 327 Employees Retirement System, 401 Military Department, 405 Department of Public Safety, 407 Commission on Law Enforcement, 458 Alcoholic Beverage Commission, 575 Texas Division of Emergency Management, 696 Department of Criminal Justice

LBB Staff: JMc, DDel, KFB, DA, LBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to border protection and economic development services, programs, and other measures, including establishing educational programs and the border protection unit, in this state to address the effects of ongoing disasters, including disasters caused by transnational and other criminal activity and public health threats.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed : a negative impact of (\$95,552,451) through the biennium ending August 31, 2025 for programs administered by the Office of Court Administration, the Office of the Governor, and the Office of the Attorney General. Additional costs, while assumed to be significant, cannot be determined due to uncertainty about the level of funding for grants and programs, as well as the size and scope of the Border Patrol Unit being unknown.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$63,881,104)
2025	(\$31,671,347)
2026	(\$21,751,244)
2027	(\$21,815,000)
2028	(\$21,808,181)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$63,881,104)	29.7
2025	(\$31,671,347)	29.7
2026	(\$21,751,244)	29.7
2027	(\$21,815,000)	29.7
2028	(\$21,808,181)	29.7

Fiscal Analysis

The bill would establish the Border Protection Court Program to support the operation of courts in the border region with the adjudication of border-related offenses. The Office of Court Administration (OCA) would establish and administer a grant program to support the operation of the program.

The bill would require OCA to conduct a study to identify offenses for which prosecutions have increased because of Operation Lone Star (OLS).

The bill would allow the Trusteed Programs within the Office of the Governor (OOG Trusteed Programs) to make funds available to state agencies and local governments for border protection and public safety.

The bill would establish a Border Property Damage Compensation Program to be administered by the Office of the Attorney General (OAG). The program would allow OAG to compensate a person residing in the border region for actual damages, not to exceed \$75,000 per incident, to their real or personal property caused by a person who entered or attempted to enter the state by crossing the border with Mexico at any time or place other than a port of entry.

The bill would require the transfer of proceeds from the sale of forfeited property related to a smuggling of persons offense to the Comptroller of Public Accounts (CPA) for deposit to the credit of the program.

The bill would establish the Border Institution Grant Program to be administered by the Texas Higher Education Coordinating Board (THECB) to grant financial assistance to institutions of higher education in the border region with programs related to border safety research and workforce development.

The bill would create a Border Protection Economic Development Initiative for the Texas Economic Development and Tourism Office to promote businesses and tourism in the border region.

The bill would amend statute to ensure the safety and welfare of the southern border region of Texas and establish the legal framework to create a Border Protection Unit (BPU), headquartered in the border region, as a separate division under the Public Safety Commission (PSC).

The bill would amend the powers and duties of the Department of Public Safety (DPS) to include air, maritime, and land border defense and create a Unit Chief position to direct the newly created BPU. The Unit Chief would be appointed by the Governor for an indefinite term and be authorized to appoint deputies and assistants and adopt rules necessary to control the BPU.

The bill would create a Class A misdemeanor offense for using the term "Border Protection Unit" with the intent to create the appearance that an object belongs to or is being used by BPU.

The bill would require OOG to establish an office of Audit and Review and an Office of Inspector General to investigate and oversee BPU operations and property. The directors of both offices would be appointed by the Governor for an indefinite term.

The bill would authorize the BPU to acquire equipment and facilities and conduct training as necessary to fulfill the operational duties outlined in the strategic plan.

The bill would require the BPU to develop a strategic plan that establishes a framework for the budget and operation of the unit and report annually to the Governor and the Legislature the implementation of the strategic plan.

The BPU would be abolished December 31, 2030, unless continued by the Legislature.

The bill would take effect immediately if it receives a vote of two-thirds in each chamber, or September 1, 2023.

Methodology

According to OCA, the Border Protection Court Program would cost \$60,825,084 in fiscal year 2024 and \$29,486,687 in fiscal year 2025, including one-time costs associated with establishing the program, 13.7 FTE positions to administer the program, and \$57,584,912 in estimated grant costs in fiscal year 2024 and \$27,250,372 in fiscal year 2025.

The grant costs represent funding estimates for seven district and or county courts that presently receive grant

funding from the OOG Trusteed Programs, and eleven new courts whose respective law enforcement agencies have either already received grant funding or the court is experiencing an uptick in OLS driven case volume. Also included in the grant total is an estimate for indigent defense representation and funding for additional attorney staff for the Fourth Court of Appeals to process OLS appeals.

According to OAG, it would require 10.0 FTEs to establish and administer the Border Property Damage Compensation program. This analysis assumes a cost of \$1,898,821 in fiscal year 2024 and \$1,048,461 in fiscal year 2025 for salaries, onetime technology costs to develop a reporting system, and other operating expenses.

For context, OAG estimates that it may receive 500 applications or more in fiscal year 2024 for property damage compensation. If each applicant is awarded an average of \$50,000, the total cost for the program could be \$25,000,000 in fiscal year 2024 alone. However, with no verifiable statewide data to determine the number of applications or the average amount paid, the fiscal impact cannot be determined.

THECB is unable to estimate the cost of the grants, as provisions regarding eligible institutions and grant amounts are subject to further rulemaking. This analysis assumes that agency costs associated with this program could be absorbed using existing resources.

According to OOG, it would require 6.0 FTEs to administer a border protection economic development initiative. This analysis includes \$1,157,199 in fiscal year 2024 and \$1,136,199 in fiscal year 2025 for salaries, professional fees for a new tourism campaign, and other operating expenses.

According to DPS, the costs associated with implementing the provisions of the bill, while assumed to be significant, cannot be determined at this time due to the size and scope of the BPU being unknown. For context, if it is determined to add 100.0 Commissioned Officer positions, the agency would require \$45,871,688 in General Revenue in fiscal year 2024 and \$21,691,332 in fiscal year 2025. This includes funding for an additional 32.2 FTE support positions and 125.0 Trooper Trainee positions. If it is determined to add 1,000.0 Commissioned Officer positions, the agency would require \$458,704,392 in fiscal year 2024 and \$219,602,055 in fiscal year 2025. This includes funding for an additional 321.9 FTE support positions and 1,250.0 Trooper Trainee positions.

According to the Texas Commission on Law Enforcement, it is assumed that any agency costs associated with the bill could be absorbed using existing resources.

According to CPA, the amount to be deposited to the credit of the Border Property Damage Compensation Program from the sale of forfeited property cannot be determined at this time due to the amount of property that may be forfeited being unknown.

Local Government Impact

According to OCA, local courts could see a positive fiscal impact as the border court grants could provide eligible jurisdictions with expanded capacity to handle increased OLS-related filings.

In addition, OOG reports that local governments could see a positive fiscal impact due to various grant programs funding the construction and maintenance of border infrastructure, facilities, equipment, and border region tourism.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 327 Employees Retirement System, 405 Department of Public Safety, 407 Commission on Law Enforcement, 529 Health and Human Services Commission, 537 State Health Services, Department of, 575 Texas Division of Emergency Management, 696 Department of Criminal Justice, 781 Higher Education Coordinating Board, 802 Parks and Wildlife Department

LBB Staff: JMc, DDel, KFB, DA, SMAT, THO, JCo

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 2, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to services and programs in the southern border region of this state to address the effects of ongoing criminal activity and public health threats in that region.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, Committee Report 1st House, Substituted: a negative impact of (\$91,559,773) through the biennium ending August 31, 2025 for programs administered by the Office of Court Administration and the Office of the Governor. Additional costs are anticipated but cannot be determined due to uncertainty about the level of funding for grants and programs established under the bill.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$61,449,085)
2025	(\$30,110,688)
2026	(\$20,169,585)
2027	(\$20,254,341)
2028	(\$20,226,522)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund	Probable Savings/(Cost) from Crime Victims Comp Acct	Change in Number of State Employees from FY 2023
	1	469	
2024	(\$61,449,085)	(\$881,830)	27.7
2025	(\$30,110,688)	(\$881,830)	27.7
2026	(\$20,169,585)	(\$881,830)	27.7
2027	(\$20,254,341)	(\$881,830)	27.7
2028	(\$20,226,522)	(\$881,830)	27.7

Fiscal Analysis

Among its provisions, the bill would:

- Prescribe the Governor certain responsibilities in making agreements with Mexico;
- Lead economic development initiatives related to the border region;

- Establish certain specialty courts; and
- Establish grant programs relating the effects of ongoing criminal activity and public health threats in the border region.

Border Protection Court Grant Program

The bill would establish the border protection court program to support the operation of courts in the border region with the adjudication of border-related offenses. The Office of Court Administration (OCA) would establish and administer a grant program to support the operation of a border protection court program established under the bill.

The bill would require OCA to adopt certain administrative rules for grant program administration. The amount provided for the grant program would be set in the General Appropriations Act. Administrative costs associated with the program could not exceed five percent of any general revenue appropriated for the grant program.

The bill would require OCA to conduct a study to identify offenses for which prosecutions have increased because of Operation Lone Star.

Border Property Damage Compensation Account

The bill would establish a Border Property Damage Compensation Account to be administered by the Criminal Justice Division of the Office of the Governor (OOG). The fund would be used to compensate a person residing in the border region for actual damages to their real or personal property caused by a person who entered or attempted to enter the state by crossing its border with Mexico at any time or place other than at a port of entry. This account would be created within the Compensation to Victims of Crime Fund.

Grant Programs Administered by the Office of the Governor

The bill would establish the following funds:

1. the Border Protection Equipment and Infrastructure Fund;
2. the Border Protection Criminal Justice Facilities Fund;
3. the Border Protection Public Safety Personnel Fund; and
4. the Border Protection Secure Trade Fund.

These funds would be administered by the OOG Criminal Justice Division and would provide financial assistance to local governments and community institutions in the border region.

Border Institution Grant Program

The bill would establish the Border Institution Grant Program. The program would be administered by the Texas Higher Education Coordinating Board (THECB) and award financial assistance to institutions of higher education in the border region with programs related to border safety research and workforce development.

Methodology

Border Protection Court Grant Program

OCA estimates the annual cost of the Border Protection Court Program would be \$60,825,084 in fiscal year 2024 and \$29,486,687 in fiscal year 2025. Costs for fiscal year 2024 include one-time costs associated with setting up a new program, operating expenses, and \$57,584,912 in estimated grant costs.

The grant costs represent funding estimates for seven district and or county courts that presently receive grant funding from the OOG Trusteed Programs, and eleven new courts whose respective law enforcement agencies have either already received grant funding or the court is noting an uptick in Operation Lone Star (OLS) driven case volume. Also included in the grant total is an estimate for indigent defense representation as well as funding for additional attorney staff for the Fourth Court of Appeals to handle OLS appeals.

Grant expenses were determined using actual expenses incurred by the counties running the Operation Lonestar Program and estimates to create eleven additional grants to counties not currently receiving court funds but experiencing expanded law enforcement operations. TIDC Supplement amount was estimated based on the amount the counties would seek funding from the OOG each year.

Programs Administered by the Office of the Governor

The OOG has identified personnel and administrative costs for the Border Property Damage and Compensation Program and the grant programs to total \$1,505,831 in each fiscal year of the biennium.

The OOG'S Criminal Justice Division would be required to administer the Border Property Damage Compensation Account to review damage claims from property owners within the border region. Consistent with other teams within the criminal justice division, the Property Damage Compensation team would consist of an Administrator, Associate Administrator, three Grant Specialists and a dedicated Accountant.

The Criminal Justice Division administers other border related grant programs each averaging between 100 - 150 funded grant recipients each year and based their estimates on their experience managing these similar programs. OOG anticipates that the funds established by the bill could generate more than 600 individual grant awards to local jurisdictions and state agencies, requiring five Grant Specialists and three Auditor positions.

The number of individuals who would be compensated for damages, and the amounts of legislative appropriations and other amounts that the fund would consist of are unknown; therefore, the related fiscal impact on the state cannot be determined. Costs associated with grants provided through the four grant program are also unable to be determined.

Border Institution Grant Program

THECB is unable to estimate the cost of the grants, as provisions regarding eligible institutions and grant amounts are subject to further rulemaking. This analysis assumes that administrative costs associated with this program could be absorbed using existing resources.

Local Government Impact

According to OCA, local courts could see a positive fiscal impact because of the bill. By participating in border court grants the bill could provide eligible jurisdictions with expanded capacity to handle increased Operation Lone Star filings. In addition, the OOG reports that local governments would see a positive fiscal impact because of the various grant programs funding the construction and maintenance of border infrastructure, facilities, equipment, and services.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 696 Department of Criminal Justice, 781 Higher Education Coordinating Board, 802 Parks and Wildlife Department

LBB Staff: JMc, SMAT, THO, JCo

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 11, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to public services and programs in the southern border region of this state to address the effects of ongoing criminal activity and public health threats, including methods of financing those services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Introduced: a negative impact of (\$36,264,797) through the biennium ending August 31, 2025 for the program that would be administered by the Office of Court Administration. Additional costs are anticipated but cannot be determined due to uncertainty about the level of funding grants and programs established under the bill.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$18,447,992)
2025	(\$17,816,805)
2026	(\$17,850,094)
2027	(\$17,877,232)
2028	(\$17,881,423)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$18,447,992)	4.0
2025	(\$17,816,805)	4.0
2026	(\$17,850,094)	4.0
2027	(\$17,877,232)	4.0
2028	(\$17,881,423)	4.0

Fiscal Analysis

The bill would establish a legislative oversight committee, specialty courts, and grant funds relating to public services and programs in the southern border region of Texas to address the effects of ongoing criminal activity and public health threats.

Border Protection Court Program

The bill would establish the border protection court program. Under this program, these border courts would handle all issues arising under Chapter 51 of the Penal Code and related border issues. The Office of Court Administration (OCA) would establish and administer a grant program to support the operation of a border protection court program established under the bill.

Border Property Damage Compensation Fund

The bill would establish the Border Property Damage Compensation Fund. The fund would be used to compensate a person in the border region for damages to their real or personal property caused by a person who entered or attempted to enter the state by crossing its border with Mexico at any time or place other than at a port of entry. The fund would be administered by the Comptroller of Public Accounts (CPA) as a special fund in the state treasury outside of the General Revenue Fund.

Border Institution Grant Program

The bill would establish the Border Institution Grant Program. The program would be administered by the Texas Higher Education Coordinating Board (THECB) and award financial assistance to institutions of higher education in the border region with programs related to border safety research and workforce development.

Construction of Border Facilities and Physical Barriers

The bill would establish a grant program to be administered by the Office of the Governor (OOG). The program would provide financial assistance to local governments and community institutions in the border region for the construction and maintenance of facilities related to border safety, including facilities used to mitigate ongoing criminal activity and public health threats to the border region. A border protection unit would oversee the construction and maintenance of walls, fences, and other physical barriers along the border with Mexico to enhance the safety and security of the people of this state.

Legislative Committee

The bill would establish a standing legislative committee related to border safety consisting of the following members: the Lieutenant Governor, the Speaker of the House of Representatives, four members of the Senate appointed by the Lieutenant Governor, and four members of the House appointed by the Speaker.

Methodology

Border Protection Court Program

OCA estimates the annual cost of the Border Protection Court Program would be \$18,447,992 in fiscal year 2024 and \$17,816,80 in fiscal year 2025. This estimate includes salaries and related benefits, one-time costs associated with setting up a new program, operating expenses, and grant funding which was determined using actual expenses incurred by the counties running the Operation Lonestar Program and projected for the creation of eleven additional grants to counties not currently receiving court funds but experiencing expanded law enforcement operations.

Border Property Damage Compensation Fund

Based on analysis from CPA, the number of individuals who would be compensated for damages, and the amounts of legislative appropriations and other amounts that the fund would consist of are unknown; therefore, the related fiscal impact on the state cannot be determined.

Border Institution Grant Program

THECB is unable to estimate the cost of the grants, as provisions regarding eligible institutions and grant amounts are subject to further rulemaking.

Construction of Border Facilities and Physical Barriers

OOG is not able to estimate the cost of the grants, but anticipates funding between 100 and 150 grant recipients each fiscal year based on other border related grants administered by the Criminal Justice Division. The Texas Facilities Commission (TFC) is currently charged with implementing the Texas Border Infrastructure program to build permanent bollard barriers along the border with Mexico, which necessitates direct coordination with DPS and acquiring land agreements with willing landowners for construction of permanent bollard barriers. The bill would assign oversight of construction and maintenance of physical barriers to the BPU. Based on information from TFC, it is estimated that the ongoing maintenance costs could be as high as 2.0-2.5 percent of the construction cost.

Legislative Committee

This analysis assumes that costs associated with the committee could be absorbed within existing resources.

Local Government Impact

According to OCA, local courts could see a positive fiscal impact as a result of the bill. By participating in border court grants the bill could provide eligible jurisdictions with expanded capacity to handle increased Operation Lone Star filings.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 781 Higher Education Coordinating Board, 802 Parks and Wildlife Department

LBB Staff: JMc, SMAT, THO, JCo

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATIVE REGULAR SESSION

Revision 1

May 19, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force, and to compensate persons affected by those threats; increasing criminal penalties; creating criminal offenses.),
Committee Report 2nd House, Substituted

The bill would establish a 10 year term of imprisonment for the third degree felony offense of smuggling of persons and would increase the minimum term of imprisonment to 10 years for the second and first degree felony offenses of smuggling of persons and continuous smuggling of persons.

The bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and be increased to a second or first degree felony in the case of certain previous felony convictions. The bill would expand the applicability of certain offenses relating to engaging in organized criminal activity to include a foreign terrorist organization and expand the conduct constituting the offense to include the unlawful possession with the intent to deliver a controlled substance or dangerous drug and operation of a stash house.

Creating a new criminal offense and increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2022, there were 6,616 individuals arrested, 202 individuals placed on community supervision, and 142 individuals admitted into a state correctional institution for offenses of smuggling of persons and continuous smuggling of persons. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The impact on state correctional populations and the demand for state correctional resources related to the increased penalties for the smuggling of persons could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

According to the information reported by the Department of Public Safety (DPS) pursuant to Article IX, Section 7.10 of the GAA and Section 9 of House Bill 9, Eighty-seventh Legislature, Second Called Session, DPS reported 63,707 detentions and referrals to federal authorities in border regions during fiscal year 2022. The number of these cases which include improper entry from a foreign nation as outlined in the bill's provisions is unknown.

In fiscal year 2022, there were 9,875 individuals arrested, 1,926 individuals placed on adult community supervision, 119 individuals placed on juvenile probation supervision, 2,825 individuals admitted to an adult state correctional institution, and 1 individual admitted to a juvenile state correctional institution for manufacturing, delivering, or possessing with intent to deliver a controlled substance in violation of the Texas Controlled Substances Act or a dangerous drug in violation of the Texas Dangerous Drug Act. In fiscal year 2022, there were 116 individuals arrested and 1 individual placed on adult community supervision for the offense of operation of a stash house. It is unknown how many of these offenses involved either possession

with intent to deliver a controlled substance or dangerous drug or engagement with organized criminal activity or a foreign terrorist organization.

The impact on state correctional populations or on the demand for state correctional resources related to improper entry from a foreign nation or engaging in organized criminal activity cannot be determined due to the lack of data to estimate the prevalence of such conduct outlined in the bill's provisions that would be subject to criminal penalties.

Source

Agencies:

LBB Staff: JMc, DDel, LBO, DGI, CMA

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to border protection and economic development services, programs, and other measures, including establishing educational programs and the border protection unit, in this state to address the effects of ongoing disasters, including disasters caused by transnational and other criminal activity and public health threats.), **As Engrossed**

The bill would expand the offense of unauthorized acts involving the Department of Public Safety name, insignia, or division name to include use of the term "Border Protection Unit" in connection with an object, with the intent to create the appearance that the object belongs to or is being used by the department. Under current law, the offense is punishable as a Class A misdemeanor but may be punishable as a third degree felony in certain circumstances.

Expanding the conduct constituting an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2022, there were no individuals arrested, no individuals placed on adult or juvenile community supervision, and no individuals admitted into an adult or juvenile state correctional institution for the offense of unauthorized acts involving the Department of Public Safety name, insignia, or division name.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, DDeI, LBO, DGI